

# Select Committee on Pension Policy

P.O. Box 40914  
Olympia, WA 98504-0914  
actuary\_st@leg.wa.gov

**December 7, 2004**

9:30 AM - 1:00 PM

Senate Hearing Room 4  
Olympia, Washington

## AGENDA

### Work Session/Public Hearing/Possible Executive Session

- 9:30 AM    **(1) Approval of Minutes**
- 9:45 AM    **(2) LEOFF 1 Benefit Cap** (Bob Baker, Sr. Research Analyst)
- 10:00 AM   **(3) LEOFF 1 Ex-spouse Survivor Benefit** (Bob Baker)
- 10:15 AM   **(4) Interruptive Military Service** (Laura Harper, Senior Research Analyst Legal)
- 10:30 AM   **(5) Deferred Rate Increases** (Matt Smith, State Actuary)
- 11:00 AM   **(6) Age 65 Retirement** (Laura Harper)  
              **(a) Rule of 90**  
              **(b) TRS Service Credit Purchase**  
              **(c) TRS Out-of-state Service Credit Purchase**
- 11:45 AM   **(7) Purchasing Power**  
              **(a) Plan 1 COLA/Gain-sharing** (Bob Baker)  
              **(b) Plan 3 Gain-sharing** (Laura Harper)
- 12:45 PM   **(8) Technical Corrections** (Bob Baker)
- 1:00 PM    **(9) Adjourn**

Persons with disabilities needing auxiliary aids or services for purposes of attending or participating in Select Committee on Pension Policy meetings should call (360) 753-9144. TDD 1-800-635-9993

#### Representative Gary Alexander

**Elaine M. Banks**  
TRS Retirees

**Marty Brown, Director\***  
Office of Financial Management

**Senator Don Carlson**

**John Charles, Director**  
Department of Retirement Systems

**Representative Steve Conway\***  
Vic e Chair

**Richard Ford**  
PERS Retirees

**Senator Karen Fraser\***  
Chair

#### Representative Bill Fromhold

**Leland A. Goeke\***  
TRS and SERS Employers

**Bob Keller**  
PERS Actives

**Corky Mattingly**  
PERS Employers

**Doug Miller**  
PERS Employers

**Glenn Olson**  
PERS Employers

#### Representative Larry Crouse

**Diane Rae**  
TRS Actives

#### Senator Debbie Regala

**J. Pat Thompson**  
PERS Actives

**David Westberg\***  
SERS Actives

#### \*Executive Committee

(360) 753-9144  
Fax: (360) 586-8135  
TDD: 1-800-635-9993

# Select Committee on Pension Policy

## Meeting and Issue Schedule

(August 30, 2004)

---

### **April 20, 2004**

10:00 AM - 12:30 PM

Senate Hearing Rm 4

Election of Officers

Session Update

Interim Work Plan

Meeting Dates

### **May 18, 2004**

9:30 AM - 4:00 PM

Senate Hearing Rm 4

Orientation

### **June 15, 2004**

10:00 AM - 12:30 PM

Senate Hearing Rm 4

Adequacy of Benefit

Military Service Credit

### **July 13, 2004**

10 AM - 1 PM

Senate Hearing Room 4

Election of Chair

Adoption of Meeting Schedule

Purchasing Power

Post-Retirement Employment

Contribution Rate Setting

### **August 17, 2004**

10 AM - 1 PM

Senate Hearing Room 4

Rules of Procedure

Gain-sharing

Purchasing Power - Options

PFC Audit and Recommendations

### **September 7, 2004**

10 AM - 1 PM

Senate Hearing Room 4

Retiree Health Insurance

Age 65 Retirement

PFC Recommendations

OSA 05-07 Budget Request

### **October 19, 2004**

10 AM - 1 PM

Senate Hearing Room 4

Age 65 Retirement - Options

LEOFF 1 Issues

State Patrol Rate Stability

Post-retirement Employment

SCPP Exec. Committee Membership

Interruptive Military Service

### **November 9, 2004**

9:30 AM - 1 PM

Senate Hearing Room 4

Plan 3 Vesting

Part-Time Education Staff Associates

Opt In/Opt Out; Age 70-1/2

State Patrol Rate Stability

LEOFF 1 Survivor Benefits

LEOFF 1 Disability Boards

### **December 7, 2004**

9:30 AM - 1 PM

Senate Hearing Room 4

LEOFF 1 Benefit Cap

LEOFF 1 Ex-spouse Survivor Benefit

Interruptive Military Service

Deferred Rate Increases

Age 65 Retirement

- Rule of 90

- TRS Service Credit Purchase

- TRS Out-of-state Service Credit

Purchase

Purchasing Power

- Plan 1 COLA/Gain-sharing

- Plan 3 Gain-sharing

Technical Corrections

# Select Committee on Pension Policy

P.O. Box 40914  
Olympia, WA 98504-0914  
actuary\_st@leg.wa.gov

## DRAFT MINUTES

November 9, 2004

The Select Committee on Pension Policy met in Senate Hearing Room 4, Olympia, Washington on November 9, 2004.

Committee members attending:

Senator Fraser, Chair  
Representative Alexander  
Elaine Banks  
Marty Brown  
John Charles  
Representative Crouse  
Representative Fromhold

Leland Goeke  
Robert Keller  
Doug Miller  
Glenn Olson  
Diane Rae  
J. Pat Thompson  
Dave Westberg

Senator Fraser called the meeting to order at 9:40 AM.

Senator Fraser announced that Representative Conway would not be attending the meeting and conveyed the Committee's condolence on the passing of his mother.

### (1) Approval of the September and October Meeting Minutes

*It was moved to approve the September and October Meeting Minutes.*  
Seconded.

#### MOTION CARRIED

Matt Smith, State Actuary, reviewed the handout entitled "Total Fiscal Impact of 2004 SCPP Proposals."

### (2) Plan 3 Vesting

Laura Harper, Senior Research Analyst Legal, presented the report entitled "Plan 3 Vesting" and Plan 3 Vesting Alternative Options."

The following people testified:

Randy Parr, Washington Education Association  
Lynn Maier, Washington Public Employees Association  
Leslie Main, Washington State School Retirees Association  
John Kvamme, Washington Association of School Administrators/  
Association of Washington School Principals

**Representative Gary Alexander**

**Elaine M. Banks**  
TRS Retirees

**Marty Brown, Director\***  
Office of Financial Management

**Senator Don Carlson**

**John Charles, Director**  
Department of Retirement Systems

**Representative Steve Conway\***  
Vice Chair

**Representative Larry Crouse**

**Richard Ford**  
PERS Retirees

**Senator Karen Fraser\***  
Chair

**Representative Bill Fromhold**

**Leland A. Goeke\***  
TRS and SERS Employers

**Bob Keller**  
PERS Actives

**Corky Mattingly**  
PERS Employers

**Doug Miller**  
PERS Employers

**Glenn Olson**  
PERS Employers

**Diane Rae**  
TRS Actives

**Senator Debbie Regala**

**J. Pat Thompson**  
PERS Actives

**David Westberg\***  
SERS Actives

**\*Executive Committee**

(360) 753-9144  
Fax: (360) 586-8135  
TDD: 1-800-635-9993

*It was moved that the "Plan 3 Vesting" bill draft Z-0181.1/05 be recommended to the Legislature. Seconded.*

**MOTION CARRIED**

**(3) Part-time Education Staff Associates**

Laura Harper, Senior Research Analyst, reviewed the report entitled "Part-time Education Staff Associates."

The following person testified:

*Randy Parr, Washington Education Association*

*It was moved that "Part-time Education Staff Associates" bill draft Z-0178.1/05 be recommended to the Legislature. Seconded.*

**MOTION CARRIED**

**(4) Opt In/Opt Out; Age 70 ½ -Subgroup Recommendation**

Bob Baker, Senior Research Analyst, reviewed the report entitled "Age 70½ and Opt In/Opt Out."

*It was moved that "Age 70½ and Opt In/Opt Out" bill draft Z-0195.2/05 2<sup>nd</sup> draft be recommended to the Legislature. Seconded.*

**MOTION CARRIED**

**(5) State Patrol Rate Stability**

Bob Baker, Senior Research Analyst, reviewed the report entitled "State Patrol Rate Stability."

The following people testified:

*Rick Jensen, Washington State Patrol Troopers Association*

*Paul Neal, Counsel, Washington State Patrol Troopers Association*

*Diane Perry, Washington State Patrol*

*It was moved that "State Patrol Rate Stability" bill draft Z-0207.2/05 2<sup>nd</sup> draft be recommended to the Legislature. Seconded.*

**MOTION FAILED**

*It was moved that "State Patrol Rate Stability" bill draft Z-0191.2/05 2<sup>nd</sup> draft be recommended to the Legislature. Seconded.*

**MOTION CARRIED**



**(6) LEOFF 1 Survivor Benefits**

Bob Baker, Senior Research Analyst, reviewed the report entitled "LEOFF 1 Survivor Benefits."

The following person testified:

*Dick Warbrouck*, Retired Firefighters of Washington

*It was moved that "LEOFF 1 Survivor Benefits" bill draft  
Z-0201.1/05 be recommended to the Legislature. Seconded.*

**MOTION CARRIED**

**(7) LEOFF 1 Disability Boards**

Bob Baker, Senior Research Analyst, reviewed the report entitled "LEOFF 1 Disability Boards."

The following person testified:

*Dick Warbrouck*, Retired Firefighters of Washington

*It was moved that "LEOFF 1 Disability Boards" bill draft  
Z-0199.1/05 be recommended to the Legislature. Seconded.*

**MOTION CARRIED**

A poll of the SCPP members was taken regarding changing the December meeting from the 7<sup>th</sup>. Senator Fraser announced that the meeting date of December 7<sup>th</sup> stands as previously agreed upon.

The meeting adjourned at 11:10 AM.

# Select Committee on Pension Policy

## LEOFF 1 Benefit Cap

*(November 19, 2004)*

---

### **Proposal**

Remove the 60% cap on final average salary (FAS) used in calculating the retirement benefits of Law Enforcement Officer's and Fire Fighter's Plan 1 members.

### **Staff**

Robert Wm. Baker, Senior Research Analyst  
(360) 586-9237

### **Members Impacted**

As of the 2003 valuation the LEOFF 1 plan has 991 active members and 8,054 retirees. Of the remaining active members, 507 are subject to the 60% benefit cap.

### **Current Situation**

When first founded, LEOFF 1 had no benefit cap. With the passage of Chapter 120, laws of 1974, members' benefits were capped at 60% of final average salary. Those hired into LEOFF 1 positions on or after February 19, 1974 -- the effective date of the act -- are subject to the 60% cap; those hired prior to that date are not.

Of the total 8,054 LEOFF 1 retirees, 2,344 became members prior to February 19, 1974. Of those, 659 had a benefit that was greater than 60% of their final average salary.

The Public Employees' Retirement System (PERS) Plan 1 and the Teachers' Retirement System (TRS) Plan 1 both have provisions capping retirement benefits at 60% of average final compensation (AFC).

The Plans 2/3, including LEOFF 2, have no benefit cap, but they are age-based plans as opposed to service-based plans. The School Employees' Retirement System (SERS), PERS and TRS 2/3 require members to be age 65 in order to receive an unreduced defined benefit. LEOFF 2 requires members to be age 53 to receive an unreduced benefit compared to age 50 in LEOFF 1.

## **History**

Two bills were introduced during the last legislative session related to the 60% cap in LEOFF 1. HB 2416 proposed raising the limit to 70% of FAS, and HB 2914 proposed eliminating the cap entirely; both bills received a hearing but neither moved from committee.

## **Policy Analysis**

One of the general policies found in the funding chapter (RCW 41.45) is "Fund, to the extent feasible, benefit increases for all plan members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service." The average age of remaining active LEOFF 1 members is 54 years, and their average member service is 29.3 years. For a plan that wasn't fully funded, there would be scant time to contribute to a benefit increase for an active membership that is already, on average, retirement eligible. Because LEOFF 1 is in surplus status at this time, any benefit increase would draw on that surplus.

Another policy issue to consider is the inconsistent treatment of members within the same plan. While the provisional differences in LEOFF 1 and LEOFF 2 are typical of closed and open plans, it is rare, however, for such differences to be present within the same Washington State retirement plan.

The other policy concern would be leapfrogging. One of the common criticisms of the Plan 1 design is the 30-year cap or 60% cap; member's benefits are maximized at 30 years of service ( $2\% \times 30$  years of service = 60% of AFC). Were

the cap raised or eliminated in the LEOFF 1 plan, members of the Public Employee's Retirement System Plan 1 (PERS 1) and Teachers Retirement System Plan 1 (TRS 1) may request a similar benefit increase which would have a much higher cost.

### **Stakeholder Input**

Richard Warbrouck  
Retired Fire Fighters of Washington  
See attached correspondence

Philip A. Talmadge  
Talmadge Law Group PLLC  
See attached correspondence

### **Executive Committee Recommendation**

In the November meeting, the Executive Committee of the Select Committee on Pension Policy recommended that the LEOFF 1 Benefit Cap issue be forwarded to the full committee for consideration.

### **Bill (Draft)**

Bill Attached

### **Fiscal Note (Draft)**

Fiscal note attached



**Retired Firefighters of Washington**

15310 163rd Ct. SE  
Renton, WA 98058-8122  
425-226-3793  
rffow@attbi.com

**RECEIVED**

**NOV 3 - 2004**

Office of  
The State Actuary

Richard Warbrouck  
President

Bob Burtch  
Secretary

November 2, 2004

The Honorable Senator Karen Fraser  
Chair, Select Committee on Pension Policy  
PO Box 40422  
Olympia, WA 98504-0422

The Honorable Representative Steve Conway  
Vice Chair, Select Committee on Pension Policy  
PO Box 40600  
Olympia, WA 98504-0600

Mr. Matt Smith, State Actuary  
Office of the State Actuary  
PO Box 40814  
Olympia, WA 98504-0914

Dear Senator Fraser, Representative Conway and Mr. Smith,

I want to thank you for your consideration of the LEOFF 1 issues that were on the Select Committee on Pension Policy October 18, 2004 meeting agenda.

We are opposed to the request to remove the 60% CAP on LEOFF 1 service pensions. We testified in opposition of HB 2914 and HB 2416 when these bills were being considered by the House Appropriation Committee during the 2004 Legislative Session. It would be inappropriate to remove the CAP unless the full contributions as delineated in the statute are restored. This would include retroactive contributions as well.

We see this as a selfish request from a small group who are now benefiting from the contribution holiday and earning additional service credit without making a contribution. These same members have received a 6% increase in their take home pay for the last four years while earning service credit of 2% per year or 8% pension. Six percent of an annual salary of \$80,000 equals \$4,800 per year or \$19,200.00 for the four-year period. Eliminating the CAP would extend this existing inequity even further.

We feel it would be inappropriate for the Legislature to grant an additional benefit to a small group after the majority of the members in the plan have retired and especially

when it's being reported by the Actuary that the Fund could have an un-funded liability in 2011.

We also feel that there are some existing inequities as addressed in the letter to the Committee from Senator Morton that should be corrected before creating new benefits.

We have not taken a position on the problem outlined by Senator Morton at this time but we are very sympathetic to the women in this situation, especially when this problem was resolved for a select small group of women in ESB 6380.

Sincerely,

A handwritten signature in cursive script that reads "R.C. Warbrouck". The signature is written in black ink and is positioned below the word "Sincerely,".

Richard C. Warbrouck

TALMADGE LAW GROUP PLLC  
18010 SOUTHCENTER PARKWAY  
TUKWILA, WASHINGTON 98188  
(206) 574-6661 (206) 575-1397 FAX

November 5, 2004

Senator Karen Fraser  
Select Committee on Pension Policy  
PO Box 40422  
Olympia, WA 98504-0422

Re: LEOFF Plan 1 Benefit Cap

Dear Senator Fraser:

I am writing to you on behalf of the Retired Firefighters of Washington (RFFOW). RFFOW is aware that the Executive Committee of the Select Committee on Pension Policy has placed an item regarding a LEOFF Plan 1 Benefit Cap on its agenda for November 9, 2004. RFFOW opposes lifting the benefit cap for LEOFF Plan 1 retirees, particularly given the contribution holiday employers and members have enjoyed since June 30, 2000.

As the Committee knows, there have been a number of previous efforts to address the present 60% cap on service retirement benefit for LEOFF Plan 1 law enforcement officers and firefighters. HB 2416 (2004) proposed to increase that cap from 60% to 70%. HB 2914 (2004) proposed to delete the cap entirely. RFFOW believes various legislators will offer legislation to alter the cap in the 2005 session of the Legislature.

The most glaring flaw in such proposals is their significant impact on the funding of LEOFF Plan 1. The Committee has been briefed by the State Actuary's office on whether a surplus or deficit exists in LEOFF Plan 1. To some extent, this calculation depends on whether the value of the LEOFF Plan 1 assets are determined on the basis of market or actuarial value. As the briefing from the Office of State Actuary on May 12, 2004 indicated, as of September 30, 2002, there was a \$278 million deficit in LEOFF Plan 1 funds if the funds are valued on the basis of their market value. If the funds are valued on the basis of their actuarial value, the Actuary concluded that there could be a surplus of as much as \$757 million as of September 30, 2002. However, even under the rosier

actuarial value of the LEOFF Plan 1 funds, the Actuary concluded that the surplus will disappear and employer/member contributions must resume for the 2011-2013 biennium. The Actuary has recently opined that the LEOFF Plan 1 system may be a deficit position as early as 2008.

Given this uncertainty about the value of the LEOFF Plan 1 funds, the absence of employer/member contributions since June 30, 2000, and the impact of removal of the benefit cap, the enactment of legislation removing the cap for the LEOFF Plan 1 retirement benefits is extremely unwise.

RFFOW also believes that the removal of the benefit cap does not constitute good public policy. The LEOFF Plan 1 members who are likely to gain from the removal of the 60% cap on service pensions are probably serving in administrative positions. These individuals have had the benefit of the contribution holiday since June 30, 2000, a substantial financial benefit as they have not been required to contribute 6% of present salary annually to LEOFF Plan 1 since that date. Moreover, many of these individuals are receiving compensation for administrative work, as opposed to active police or fire work. Administrators tend to receive higher pay so that the removal of the cap will cost the system more.

The removal of the cap will offer a tempting target for abuse. Individuals could return to duty from disability status to substantially increase their pension. In Tacoma, an assistant chief of police returned to duty after 10 years of receiving disability payments. This individual worked a single day and then retired on a service pension. He gained two percent for each of the ten years he was on disability, and retired, not at the assistant chief's salary when he became disabled, but at the current assistant chief's salary.

In summary, RFFOW asks the Committee to carefully assess any proposed legislation to alter the cap on service retirements under LEOFF Plan 1. At a minimum, the Committee should receive the latest information from the Office of State Actuary regarding the present surplus/deficit in LEOFF Plan 1. The Committee should also have the best estimate from the Actuary regarding the fiscal impact of any alteration of the cap for service retirement benefits under LEOFF Plan 1.

RFFOW will continue to oppose legislation altering the service retirement benefit cap so long as the contribution holiday persists, and other more pressing needs for reform in the LEOFF Plan 1 benefit structure remain.



If RFFOW can provide any additional information to the Committee regarding these matters, please do not hesitate to contact Richard C. Warbrouck or me.

Very truly yours,

Philip A. Talmadge

PAT:gab

cc: Richard C. Warbrouck  
Executive Committee members  
Matt Smith

1       AN ACT Relating to removing the cap on retirement benefits of  
2 members of the law enforcement officers' and fire fighters' retirement  
3 system plan 1; and amending RCW 41.26.100.

4       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 41.26.100 and 1991 c 343 s 16 are each amended to read  
6 as follows:

7       A member upon retirement for service shall receive a monthly  
8 retirement allowance computed according to his or her completed  
9 creditable service credit years of service as follows: Five years but  
10 under ten years, one-twelfth of one percent of his or her final average  
11 salary for each month of service; ten years but under twenty years,  
12 one-twelfth of one and one-half percent of his or her final average  
13 salary for each month of service; and twenty years and over one-twelfth  
14 of two percent of his or her final average salary for each month of  
15 service: PROVIDED, That the recipient of a retirement allowance who  
16 shall return to service as a law enforcement officer or fire fighter  
17 shall be considered to have terminated his or her retirement status and  
18 he or she shall immediately become a member of the retirement system  
19 with the status of membership he or she had as of the date of

1 retirement. Retirement benefits shall be suspended during the period  
2 of his or her return to service and he or she shall make contributions  
3 and receive service credit. Such a member shall have the right to  
4 again retire at any time and his or her retirement allowance shall be  
5 recomputed, and paid, based upon additional service rendered and any  
6 change in final average salary(~~(: PROVIDED FURTHER, That no retirement~~  
7 ~~allowance paid pursuant to this section shall exceed sixty percent of~~  
8 ~~final average salary, except as such allowance may be increased by~~  
9 ~~virtue of RCW 41.26.240, as now or hereafter amended)~~).

--- END ---

# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/22/04	Z-0183.1/Z-0184.1

## SUMMARY OF BILL:

This bill impacts the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) by removing the provision that limits the retirement allowance for those who became members on or after February 19, 1974 to 60% of their final average salary.

Effective Date: 90 days after session

## CURRENT SITUATION:

Currently, the maximum retirement allowance for a member of LEOFF 1 who became a member on or after February 19, 1974 is 60% of their final average salary. Those who became members before February 19, 1974 have no such limit on their retirement allowance.

## MEMBERS IMPACTED:

We estimate that 529 active members hired on or after 2/19/1974 out of the total 991 active members of this plan could be affected by this bill. Additional members could be affected if they returned to work and earn over 30 years of service.

Each year of additional service credit beyond 30 years would result in an increase of about \$120 in monthly pension payments per person (based on a current annual salary of \$71,924).

## ASSUMPTIONS:

We assumed that half of the future disabled retirees with at least 34 years of service will elect the proposed service retirement benefit (68% of pay before-tax) in lieu of the 50% of the pay tax-free disability benefit (maximum of 60% with 2 eligible dependents). We also assumed that this proposed benefit change would alter future service retirement behavior in the plan. We subtracted 0.01 from the retirement rates from age 50 to 54, and subtracted 0.02 from the rates from age 55 to 59. The impact of the disability and retirement assumption change is reflected in the cost of this proposal.

## FISCAL IMPACT:

### Description:

There is no immediate fiscal impact while the plan remains in a surplus or fully funded position. The current plan is projected to remain fully funded because the market value of assets exceeds the liabilities by \$39 million (at 9/30/2003). This proposal would reduce the surplus, but as long as a surplus remains on a market value basis, we would not project the plan to emerge from full funding under current long-term assumptions. However, if the plan experiences short-term actuarial losses, the plan would be more likely to emerge from full funding as a result of the proposed benefit increase. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

### Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

<b>Law Enforcement Officers' and Police and Fire Fighters Retirement System:</b>			
<i>(Dollars in Millions)</i>	<b>Current</b>	<b>Increase</b>	<b>Total</b>
<b>Actuarial Present Value of Projected Benefits</b> (The Value of the Total Commitment to all Current Members)	\$4,342	\$23	\$4,365
<b>Unfunded Actuarial Accrued Liability</b> (The Portion of the Plan 1 Liability that is Amortized at 2024)	(\$462)	\$23	(\$439)
<b>Unfunded Liability (PBO)</b> (The Value of the Total Commitment to all Current Members Attributable to Past Service)	(\$521)	\$16	(\$505)

### Increase in Contribution Rates: (Effective 9/1/2005)

Employee	0.00%
Employer State	0.00%

### Fiscal Budget Determinations:

There is no projected increase in funding expenditures.

### State Actuary's Comments:

We have projected that the cost of this bill would draw down a portion of the plan's current surplus, but would not increase the plan's future funding requirements. This projection reflects the future recognition of prior asset gains and losses not yet fully recognized under the asset smoothing method and reflects the cost of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Law Enforcement Officers' and Fire Fighters' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

## GLOSSARY OF ACTUARIAL TERMS:

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Projected Benefits:** Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Unfunded Actuarial Accrued Liability (UAAL):** The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all Plan 1, 2 and 3 members until the year 2024.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

Select Committee on Pension Policy

# **LEOFF 1 Ex-spouse Survivor Benefits**

*(November 22, 2004)*

---

**Proposal**

Allow all ex-spouses of Law Enforcement Officer's and Fire Fighter's Retirement System Plan 1 (LEOFF 1) members, who have been provided benefits under any court approved property settlement agreement incident to the divorce of the member and ex-spouse, to continue receiving those benefits after the death of the member. And allow those ex-spouses whose benefit was suspended upon the death of the member to resume their benefit.

**Staff**

Robert Wm. Baker, Senior Research Analyst  
(360) 586-9237

**Members Impacted**

As of the 2003 valuation, there were 991 active members, 6,870 retirees, and 1,184 survivors in LEOFF 1. Ex-spouses who may be pre-deceased or have been pre-deceased by members would be impacted; there are an estimated 250 ex-spouses who may be impacted by such change to survivor eligibility provisions.

**Current Situation**

Benefits to many ex-spouses of LEOFF 1 members may cease after the member's death.

Under the most recent legislation, ex-spouses of LEOFF 1 members may qualify for survivor benefits if they divorced prior to the member's separation from service and entered into a court

order or court approved property settlement after July 1, 2003. In such an instance, the ex-spouse may be awarded a portion of the member's benefit and survivor benefit if that benefit is so designated in the order or settlement.

Earlier provisions in LEOFF 1 required ex-spouses to meet stringent criteria to be eligible for survivor benefits. Prior to 1980, ex-spouses could only qualify if they had been married to the member for 30 years, 20 of which were before the member retired. More recently, an ex-spouse could qualify for survivor benefits if the member had 30 years of service and they had been married at least 25 years. Outside of those narrow parameters, the benefit for a spouse who divorced and entered into a property settlement prior to July 1, 2003 will cease upon the death of the member.

## **Policy Analysis**

The recent expansion of benefits in LEOFF 1 allowing ex-spouses to receive survivor benefits established new policy in this area. Earlier retroactive remedies for ex-spouse survivor benefits were narrowly constructed, and benefitted very few individuals. As a result, earlier policies and statutes that govern the benefits of members who divorced and entered into a property settlement before July 1, 2003 are in conflict with the more current policy. Adding to the complexity of the issue is the difficulty of retroactively modifying court-approved property settlements, particularly after the death of one of the principals.

A retroactive benefit issue, such as this, also has funding policy implications. One of the general policies found in the funding chapter (RCW 41.45) is "Fund, to the extent feasible, benefit increases for all plan members over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service." This policy is based on the concept of inter-generational equity. The average age of remaining active LEOFF 1 members is 54 years, and their average member



service is 29.3 years. For a plan that wasn't fully funded, there would be scant time for members who are already retirement eligible to contribute to a retroactive benefit increase. Because LEOFF 1 is in surplus status at this time, any benefit increase would draw on that surplus.

### **Stakeholder Input**

Senator Bob Morton  
7<sup>th</sup> Legislative District  
See attached correspondence

Philip A. Talmadge  
Talmadge Law Group PLLC  
See attached correspondence

### **Executive Committee Recommendation**

At the November meeting, the Executive Committee of the Select Committee on Pension Policy recommended forwarding the LEOFF 1 ex-spouse survivor benefits issue to the full committee for consideration.

### **Bill Draft**

See attachment

### **Fiscal Note**

See attachment



RECEIVED

MAY 21 2004

**Olympia Office:**  
115D Irv Newhouse Building  
PO Box 40407  
Olympia, WA 98504-0407  
Phone: (360) 786-7612  
FAX: (360) 786-1999  
E-mail: morton\_bo@leg.wa.gov

## Washington State Senate

**Senator Bob Morton**  
7th Legislative District

**Office of  
The State Actuary  
District Office:**  
3278 Pierre Lake Road  
Kettle Falls, WA 99141  
Phone: (509) 684-5132

May 19, 2004

Dear Members of the Select Committee on Pension Policy:

During this past session, I was contacted by a former constituent, Sandra White, who is in dire financial circumstances because of the application of a survivor benefit statute. I would like to request that the Select Committee on Pension Policy ("SCPP") consider legislation that would remedy Ms. White's unfortunate plight.

Enclosed is Ms. White's correspondence, and following is a summary of her issue in the hope that the SCPP will find this useful in its consideration of this matter:

### Issue

Ms. White was married to a LEOFF 1 member for 41 years. They divorced in 2000, some four years after he retired. The court order entitled her to half of his retirement benefit. Mr. White died one month after the divorce, thereby terminating Ms. White's retirement allowance. As a homemaker for all the years of their marriage, Ms. White has little money now.

### 2002 Legislative Change: Survivor Benefit for Ex-Spouses of LEOFF 1 Members

In the 2002 session, the legislature passed ESB 6380 which, among other things, granted a survivor benefit to ex-spouses of LEOFF 1 members, provided certain criteria were met.

The criteria included: (a) the member must have had 30 years of service, (b) the parties must have been married at least 25 years, and (c) the parties must have entered into a court-approved property settlement agreement awarding a portion of the member's benefits to the ex-spouse after June 13, 2002.

Under the bill as passed, Ms. White did not qualify for a survivor benefit. Her husband had 29 years & 10 months of service, not 30 years. And the court order entitling her to half of his retirement was entered in 2000, not after June 13, 2002.

Options to Solve Ms. White's Situation

There are several ways in which Ms. White's situation could be remedied and a survivor benefit could be obtained. Most notably, SB 6380 as it passed the Senate in 2002 would have solved Ms. White's problem, as it did not have the thirty year member requirement nor the time restriction on when the court order was entered into. Had that version not been subsequently amended, Ms. White would be receiving benefits now. I would ask the committee to consider this, or another alternative, as a solution to Ms. White's problem.

Thank you for your consideration.

Cordially yours,

A handwritten signature in black ink that reads "Bob".

BOB MORTON  
State Senator

Enclosure

cc: Matthew Smith ✓

TALMADGE LAW GROUP PLLC  
18010 SOUTHCENTER PARKWAY  
TUKWILA, WASHINGTON 98188  
(206) 574-6661 (206) 575-1397 FAX

November 5, 2004

Senator Karen Fraser  
Select Committee on Pension Policy  
PO Box 40422  
Olympia, WA 98504-0422

Re: LEOFF Plan 1 Survivor Benefits

Dear Senator Fraser:

I am writing to you on behalf of the Retired Firefighters of Washington (RFFOW) regarding LEOFF Plan 1 survivor benefits, a topic that is on the agenda of the Executive Committee of the Select Committee on Pension Policy on November 9, 2004.

By way of background, the issue of how to fairly treat the ex-spouses of LEOFF Plan 1 members with respect to benefits has been a difficult one. For a service retirement under LEOFF Plan 1, a member received benefits until his or her death. The law allowed a survivorship benefit. RCW 41.26.160. However, the ex-spouse of the LEOFF Plan 1 member did not qualify for that benefit.

The Washington Supreme Court in *Arnold v. Dep't of Retirement Systems*, 128 Wn.2d 765, 912 P.2d 463 (1996), indicated that the Legislature's decision in RCW 41.26.160 to exclude ex-spouses of LEOFF members as beneficiaries of the LEOFF survivor benefit was constitutional. Moreover, the Court determined that statutory pension benefits could not be divided by a dissolution decree because the LEOFF Plan 1 benefits were personal to the firefighter or law enforcement officer and were not subject to community property law. The Court indicated, however, that a dissolution decree could address the concerns of a spouse not receiving the statutory benefits by a disproportionate award of other property, community and separate.

In 1999, the Legislature amended RCW 41.26.160 to differentiate between survivor benefits based on injuries or death incurred in the line of

duty and benefits occasioned by injuries or death not incurred in the line of duty. However, the Legislature did not address the question of the authority of the Department of Retirement Systems to split the benefit stream and allocate pension benefits between a firefighter and police officer and his or her spouse during the LEOFF Plan 1 member's lifetime in the dissolution decree. The Legislature also did not address the ex-spouse survivorship benefit issue.

These issues were finally addressed by the 2002 Legislature. The Legislature enacted ESB 6380 to permit the Department of Retirement Systems to separately pay retirement benefits to a LEOFF Plan 1 member and the member's divorced spouse pursuant to a dissolution decree. RCW 41.26.460.

The Legislature also redefined survivorship benefits for the former spouses of LEOFF Plan 1 members. RCW 41.26.162(2) indicated that former spouse of LEOFF Plan 1 member who divorced the member before the member retired, may qualify for the survivorship benefit of RCW 41.26.160 if a court order is entered in the dissolution after July 1, 2003. RCW 41.26.162(3) indicated that an ex-spouse of a LEOFF Plan 1 member with at least 30 years of service, who was married to the member for at least 25 years, and entered into a court-ordered property division after June 13, 2002, may also qualify for survivorship benefits.

The Legislature's treatment of eligibility of ex-spouses for survivorship benefits in RCW 41.26.162 creates serious inequities. The Committee received a May 19, 2004 letter from Senator Bob Morton (see attached) regarding one of his former constituents who was denied the LEOFF Plan 1 survivorship benefits because her husband, a LEOFF Plan 1 member, had 29 years and 10 months of service instead of 30 years, and the court order granting her a portion of his retirement benefit was entered in 2000 rather than after June 13, 2002.

RFFOW believe that eligibility standards of RCW 41.26.162(3) should be amended. This is a matter of simple equity for the former spouses of LEOFF Plan 1 members. These ex-spouses, mainly women, are severely financially impacted by their inability to receive benefits under LEOFF Plan 1. Many of the women so affected did not, and do not work, outside of the home. They do not have their own Social Security benefits. Moreover, most firefighters and law enforcement officers do not have Social Security benefits, and survivorship benefits under the Social Security Act are therefore not available to these women.

November 5, 2004

Page 3 of 3

RFFOW would support legislation to broaden the eligibility of former spouses of LEOFF Plan 1 members for benefits under RCW 41.26.162(3).

Thank you for your attention to this very important issue. RFFOW hopes that the Committee will recommend changes in the eligibility standard for RCW 41.26.162(3) so that the ex-spouses of LEOFF Plan 1 members will be treated more fairly than is true under present law.

Very truly yours,

Philip A. Talmadge

PAT:gab

Attachment

cc: Richard C. Warbrouck  
Executive Committee Members  
Matt Smith

1 AN ACT Relating to survivor benefits for ex spouses in the law  
2 enforcement officers' and fire fighters' retirement system, plan 1; and  
3 amending RCW 41.26.160, 41.26.161, and 41.26.162.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 41.26.160 and 2002 c 158 s 1 are each amended to read  
6 as follows:

7 (1) In the event of the duty connected death of any member who is  
8 in active service, or who has vested under the provisions of RCW  
9 41.26.090 with twenty or more service credit years of service, or who  
10 is on duty connected disability leave or retired for duty connected  
11 disability, the surviving spouse shall become entitled, subject to RCW  
12 41.26.162(~~((+2))~~), to receive a monthly allowance equal to fifty percent  
13 of the final average salary at the date of death if active, or the  
14 amount of retirement allowance the vested member would have received at  
15 age fifty, or the amount of the retirement allowance such retired  
16 member was receiving at the time of death if retired for duty connected  
17 disability. The amount of this allowance will be increased five  
18 percent of final average salary for each child as defined in RCW  
19 41.26.030(7), subject to a maximum combined allowance of sixty percent

of final average salary: PROVIDED, That if the child or children is or are in the care of a legal guardian, payment of the increase attributable to each child will be made to the child's legal guardian or, in the absence of a legal guardian and if the member has created a trust for the benefit of the child or children, payment of the increase attributable to each child will be made to the trust.

(2) If at the time of the duty connected death of a vested member with twenty or more service credit years of service as provided in subsection (1) of this section or a member retired for duty connected disability, the surviving spouse has not been lawfully married to such member for one year prior to retirement or separation from service if a vested member, the surviving spouse shall not be eligible to receive the benefits under this section: PROVIDED, That if a member dies as a result of a disability incurred in the line of duty, then if he or she was married at the time he or she was disabled, the surviving spouse shall be eligible to receive the benefits under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's duty connected death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment, under this subsection, of sixty percent of final average salary. When there cease to be any eligible children as defined in RCW 41.26.030(7), there shall be paid to the legal heirs of the member the excess, if any, of accumulated contributions of the member at the time of death over all payments made to survivors on his or her behalf under this chapter: PROVIDED, That payments under this subsection to children shall be prorated equally among the children, if more than one. If the member has created a trust for the benefit of the child or children, the payment shall be made to the trust.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then the accumulated contributions shall be paid to the estate of the member.

(5) If a surviving spouse receiving benefits under this section remarries after June 13, 2002, the surviving spouse shall continue to receive the benefits under this section.



1 (6) If a surviving spouse receiving benefits under the provisions  
2 of this section thereafter dies and there are children as defined in  
3 RCW 41.26.030(7), payment to the spouse shall cease and the child or  
4 children shall receive the benefits as provided in subsection (3) of  
5 this section.

6 (7) The payment provided by this section shall become due the day  
7 following the date of death and payments shall be retroactive to that  
8 date.

9 **Sec. 2.** RCW 41.26.161 and 2002 c 158 s 2 are each amended to read  
10 as follows:

11 (1) In the event of the nonduty connected death of any member who  
12 is in active service, or who has vested under the provisions of RCW  
13 41.26.090 with twenty or more service credit years of service, or who  
14 is on disability leave or retired, whether for nonduty connected  
15 disability or service, the surviving spouse shall become entitled,  
16 subject to RCW 41.26.162((+2+)), to receive a monthly allowance equal  
17 to fifty percent of the final average salary at the date of death if  
18 active, or the amount of retirement allowance the vested member would  
19 have received at age fifty, or the amount of the retirement allowance  
20 such retired member was receiving at the time of death if retired for  
21 service or nonduty connected disability. The amount of this allowance  
22 will be increased five percent of final average salary for each child  
23 as defined in RCW 41.26.030(7), subject to a maximum combined allowance  
24 of sixty percent of final average salary: PROVIDED, That if the child  
25 or children is or are in the care of a legal guardian, payment of the  
26 increase attributable to each child will be made to the child's legal  
27 guardian or, in the absence of a legal guardian and if the member has  
28 created a trust for the benefit of the child or children, payment of  
29 the increase attributable to each child will be made to the trust.

30 (2) If at the time of the death of a vested member with twenty or  
31 more service credit years of service as provided in subsection (1) of  
32 this section or a member retired for service or disability, the  
33 surviving spouse has not been lawfully married to such member for one  
34 year prior to retirement or separation from service if a vested member,  
35 the surviving spouse shall not be eligible to receive the benefits  
36 under this section.

(3) If there be no surviving spouse eligible to receive benefits at the time of such member's death, then the child or children of such member shall receive a monthly allowance equal to thirty percent of final average salary for one child and an additional ten percent for each additional child subject to a maximum combined payment, under this subsection, of sixty percent of final average salary. When there cease to be any eligible children as defined in RCW 41.26.030(7), there shall be paid to the legal heirs of the member the excess, if any, of accumulated contributions of the member at the time of death over all payments made to survivors on his or her behalf under this chapter: PROVIDED, That payments under this subsection to children shall be prorated equally among the children, if more than one. If the member has created a trust for the benefit of the child or children, the payment shall be made to the trust.

(4) In the event that there is no surviving spouse eligible to receive benefits under this section, and that there be no child or children eligible to receive benefits under this section, then the accumulated contributions shall be paid to the estate of said member.

(5) If a surviving spouse receiving benefits under this section remarries after June 13, 2002, the surviving spouse shall continue to receive the benefits under this section.

(6) If a surviving spouse receiving benefits under the provisions of this section thereafter dies and there are children as defined in RCW 41.26.030(7), payment to the spouse shall cease and the child or children shall receive the benefits as provided in subsection (3) of this section.

(7) The payment provided by this section shall become due the day following the date of death and payments shall be retroactive to that date.

**Sec. 3.** RCW 41.26.162 and 2002 c 158 s 3 are each amended to read as follows:

(1)((+a)) An ex spouse of a law enforcement officers' and fire fighters' retirement system retiree shall qualify as surviving spouse under RCW 41.26.160 or 41.26.161 if the ex spouse(+

(+i)) has been provided benefits under any currently effective court decree of dissolution or legal separation or in any court order

1 or court-approved property settlement agreement incident to any court  
2 decree of dissolution or legal separation (~~entered after the member's~~  
3 ~~retirement and prior to December 31, 1979; and~~

4 ~~(ii) Was married to the retiree for at least thirty years,~~  
5 ~~including at least twenty years prior to the member's retirement or~~  
6 ~~separation from service if a vested member.~~

7 ~~(b) If two or more persons are eligible for a surviving spouse~~  
8 ~~benefit under this subsection, benefits shall be divided between the~~  
9 ~~surviving spouses based on the percentage of total service credit the~~  
10 ~~member accrued during each marriage.~~

11 ~~(c) This subsection shall apply retroactively.~~

12 ~~(2)(a) An ex spouse of a law enforcement officers' and fire~~  
13 ~~fighters' retirement system plan 1 retiree who:~~

14 ~~(i) Divorces the member before separation from service; and~~

15 ~~(ii) Entered into the court order or court-approved property~~  
16 ~~settlement agreement incident to the divorce of the member and ex~~  
17 ~~spouse after July 1, 2003;~~

18 ~~may be awarded a portion of the member's benefit and a portion of any~~  
19 ~~spousal survivor's benefit pursuant to RCW 41.26.160 or 41.26.161 after~~  
20 ~~the member's death if specified in the court order or court-approved~~  
21 ~~property settlement.~~

22 ~~(b) This subsection shall not apply retroactively.~~

23 ~~(3)(a) An ex spouse of a law enforcement officers' and fire~~  
24 ~~fighters' retirement system plan 1 member with at least thirty years of~~  
25 ~~service who:~~

26 ~~(i) Divorced the member after being married to the member for at~~  
27 ~~least twenty-five years; and~~

28 ~~(ii) Entered into a court order or court-approved property~~  
29 ~~settlement agreement incident to the divorce that awarded a portion of~~  
30 ~~the member's benefits to the ex spouse after June 13, 2002;)). Such an~~  
31 ~~ex spouse shall continue to receive ((that)) the court-awarded portion~~  
32 ~~of the member's benefit after the member's death as if the member was~~  
33 ~~still alive.~~

34 ~~((b) This subsection shall apply only to a divorce entered into~~  
35 ~~after January 1, 1997. However, no payments shall be made to an ex~~  
36 ~~spouse of a deceased member qualifying under this subsection for any~~  
37 ~~period prior to June 13, 2002.))~~

1       (2) An ex spouse whose benefit resumes as a result of this act  
2 shall receive an initial payment equivalent to that portion of the  
3 member's benefit received prior to its suspension. The benefit will  
4 not be adjusted under RCW 41.26.240 for the period the allowance was  
5 suspended.

6       (3) This act shall not result in the payment of benefits for the  
7 period during which benefits were suspended.

8       (4) This section shall apply retroactively.

--- END ---

# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/30/2004	Z-0236.1/Z-0247.1

## SUMMARY OF BILL:

This bill impacts the Law Enforcement Officer's and Fire Fighter's Retirement System Plan 1 (LEOFF 1) by allowing all ex-spouses of LEOFF 1 members, who have been provided benefits under any court approved property settlement agreement incident to the divorce of the member and ex-spouse, to continue receiving those benefits after the death of the member. The bill will also allow those ex-spouses whose benefit was suspended upon a member's death to resume their benefit.

Effective Date: 90 days after session

## CURRENT SITUATION:

Benefits to many ex-spouses of LEOFF 1 members cease after the member's death.

Under the most recent legislation, ex-spouses of LEOFF 1 members may qualify for survivor benefits if they divorced prior to the member's separation from service and entered into a court order or court approved property settlement after July 1, 2003. In such an instance, the ex-spouse may be awarded a portion of the member's benefit and survivor benefit if that benefit is so designated in the order or settlement.

Earlier provisions in LEOFF 1 required ex-spouses to meet stringent criteria to be eligible for survivor benefits. Prior to 1980, ex-spouses could only qualify if they had been married to the member for 30 years, 20 of which were before the member retired. More recently, an ex-spouse could qualify for survivor benefits if the member had 30 years of service and they had been married at least 25 years. Outside of those narrow parameters, the benefit for a spouse who divorced and entered into a property settlement prior to July 1, 2003 will cease upon the death of the member.

## MEMBERS IMPACTED:

We estimate that 221 ex-spouses of members in a system with a total of 9,059 members would be affected by this bill. This includes 16 ex-spouses whose payments have already been stopped, and 205 ex-spouses whose benefits could potentially stop while they are still alive if the member dies first.

We estimate that for a typical ex-spouse of a member impacted by this bill whose benefits have already been stopped, the increase in benefits would be an immediate life annuity of about \$800 per month. For a typical ex-spouse of a member impacted by this bill whose benefits have could potentially stop in the future, the increase in benefits would be a continuation of a benefit of about \$1,040 per month for the life of the ex-spouse following the death of the member.

## ASSUMPTIONS:

We relied on data from DRS regarding the ex-spouses who would be impacted by this bill, and the amount of their benefits. For the 10 ex-spouses with missing split amounts, we assumed that the ex-spouse would receive 50% of the member's benefit. For the ex-spouses whose benefits were already stopped, we assumed that the same amount that was stopped would be restarted as a life annuity, with no retroactive payments and no retroactive adjustments for COLAs. For the ex-spouses whose benefits could be stopped in the future, the value of the ex-spouse benefit was based on the difference between the member selecting a joint and 100% survivor benefit and the member selecting a life annuity, using the member's age at the valuation date. We used separate mortality table for healthy and disabled members, and used a healthy mortality table for ex-spouses. We did not factor in any possible difference in mortality rates based on marital status.

## FISCAL IMPACT:

### Description:

There is no immediate fiscal impact while the plan remains in a surplus or fully funded position. The current plan is projected to remain fully funded because the market value of assets exceeds the liabilities by \$39 million (at 9/30/2003). This proposal would reduce the surplus, but as long as a surplus remains on a market value basis, we would not project the plan to emerge from full funding under current long-term assumptions. However, if the plan experiences short-term actuarial losses, the plan would be more likely to emerge from full funding as a result of the proposed benefit increase. Also, if the plan does come out of full funding, the plan would be projected to resume funding earlier and at a higher rate.

### Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

<b>Law Enforcement Officers' and Police and Fire Fighters Retirement System:</b>			
<i>(Dollars in Millions)</i>			
	<b>Current</b>	<b>Increase</b>	<b>Total</b>
<b>Actuarial Present Value of Projected Benefits</b>	\$4,342	\$9	\$4,351
(The Value of the Total Commitment to all Current Members)			
<b>Unfunded Actuarial Accrued Liability</b>	(\$462)	\$9	(\$453)
(The Portion of the Plan 1 Liability that is Amortized at 2024)			
<b>Unfunded Liability (PBO)</b>	(\$521)	\$9	(\$512)
(The Value of the Total Commitment to all Current Members Attributable to Past Service)			
<b>Increase in Contribution Rates: (Effective 9/1/2005)</b>			
Employee	0.00%		
Employer State	0.00%		

**Fiscal Budget Determinations:**

There is no projected increase in funding expenditures.

**State Actuary's Comments:**

We have projected that the cost of this bill would draw down a portion of the plan's current surplus, but would not increase the plan's future funding requirements. This projection reflects the future recognition of prior asset gains and losses not yet fully recognized under the asset smoothing method and reflects the cost of this proposed plan change. The plan's actual funded status will vary depending on the plan's actual experience and could easily be different than projected over the short-term.

## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Law Enforcement Officers' and Fire Fighters' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

## GLOSSARY OF ACTUARIAL TERMS:

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Projected Benefits:** Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Unfunded Actuarial Accrued Liability (UAAL):** The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all Plan 1, 2 and 3 members until the year 2024.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.



# Select Committee on Pension Policy

## Interruptive Military Service Credit

*(November 16, 2004)*

---

### **Issue**

The issue before the Select Committee on Pension Policy is whether to expand opportunities for members of the Washington State Retirement Systems to acquire service credit for periods of interruptive military service.

### **Staff**

Laura Harper, Senior Research Analyst/Legal  
360-586-7616

### **Members Impacted**

All members of Washington's retirement systems may avail themselves of some form of military service credit. "Interruptive" military service credit is available to those who interrupt public employment to serve in the uniformed military branches of the United States. This type of service is governed by the federal Uniformed Services Employment and Re-employment Rights Act (USERRA)<sup>1</sup>. The act is described in more detail under the heading "Current Situation."

### **Current Situation**

Interruptive military service is governed by federal law. At a minimum, public employers must provide the protections specified in the Uniformed Services Employment and Re-employment Rights Act (USERRA). USERRA was signed into law in 1994, with amendments made in 1996, 1998 and 2000. This law provides for the re-employment of individuals who leave employment to serve in the uniformed military branches. Included in USERRA's re-employment rights is the right to restoration of retirement plan benefits.

For employers, the fundamental requirement of USERRA as it relates to retirement plan benefits is to provide for recovery of the benefits that a re-employed participant did not receive due to qualifying military service. The employee must be treated for vesting and benefit accrual purposes as if he or she had remained continuously employed. Employers do not have to begin making up pension contributions until after the veteran returns to civilian employment with the same employer. Employers may fund makeup contributions over a period of three times the military service period, not to exceed five years. A rehired veteran is not entitled to missed allocations for any lost earnings on makeup contributions.

Generally, under USERRA, rehired veterans have up to three times the period of service - not to exceed five years - to make up missed employee contributions. The amount of makeup contributions is subject to the limits that would have applied during the military service period. No interest is charged on the contributions, because rehired veterans can only be charged the amount they would have been permitted or required to contribute had they remained continuously employed throughout the period of military service. The Washington State Retirement Systems allow a five-year payback period for employee contributions, regardless of the period of military service. Under USERRA there are exceptions to this general rule that may allow for a longer payback period.

The following hypothetical example illustrates how a member who is called into active duty may obtain service credit for interruptive military service. Consider a member of the Washington State Patrol Retirement System (WSPRS) who was hired July 1, 1999 and was called into active service from July 1, 2003 through June 30, 2004 after completing four years of service with WSPRS. This member's salary was \$40,000 when he left employment and he was required to make an employee contribution of 2% of salary during the period of active service. There was no required employer contribution. Assuming that the member is re-employed upon his return from active duty (according to the terms and conditions set forth in USERRA), the member has five years (more generous than USERRA's three years) to pay back the contributions he would have paid had he remained continuously employed. Therefore his total payment obligation is:

$$2\% \times \$40,000 \times 1 \text{ year} = \$800$$

Assuming repayment, the member is treated as if he had been continuously employed and his service credit had continued to accrue while away on active duty. The member's vesting date (based on a five-year vesting period for this plan) will be July 1, 2004. *Note:* the member's payback will vary from plan to plan, as member contribution rates differ throughout the Washington State Retirement Systems. Also, several of the Plans 1 (PERS 1, LEOFF 1 and Washington State Patrol "Plan 1") allow interruptive military service credit at no cost to the member if certain statutory conditions are met. See RCW 41.40.170, 41.46.190, 43.43.130(5) and 43.43.260(3)(a).

USERRA pre-empts state retirement policy in that all public employers must meet the minimum requirements of this federal law. However, states have the discretion to go beyond USERRA and grant benefits for the period of interruptive service that are more generous than those available under the act. The goal of USERRA is to treat employees who are called to active duty as if they had been continuously employed. Employers who choose to go beyond USERRA may reward active duty by paying all or part of the contributions that the member would have paid during the period of active duty. They may also provide all or part of the member's salary during the period of active service.

### ***Options to Address Limitations of USERRA***

#### ***1. Death in Service***

While USERRA provides for the restoration of retirement benefits upon re-employment of a member whose public employment was interrupted by military service, it does not address the retirement benefits that would have accrued to members who die while in active service or those who are unable to be re-employed due to a disability. Thus, for example, if a PERS 2 member would have reached ten years of service during the period of interruptive military service and dies in action, but had only nine years of service credit prior to leaving for active duty, the surviving spouse would be limited to a refund (based on nine years of service credit) and would not be able to receive a survivor benefit in the nature of a pension payment (based on ten years of service credit). This could be remedied by allowing the surviving spouse to pay the contributions that the member would have paid but for the military service, and allowing the service credit to accrue to the date of death.

2. Total Disability in Service

Similarly, if the same member whose public employment was interrupted by military service becomes totally incapacitated for continued employment, that member's disability allowance would be based upon service credit up to the date he/she left employment for military service instead of to the date of disability. Allowing the disabled member to pay the member contributions and restore service credit up to the date of disability would be consistent with the federal policy of treating the veteran for vesting and benefit accrual purposes as if he/she had been continuously employed.

3. Employer Payments During Military Leave

Several Washington public employers (e.g. Pierce, Grant and King counties) have decided to voluntarily supplement the salary of members on military leave. Currently, such income cannot be reported to the Department of Retirement Systems (DRS). Also, federal law is currently unclear as to the status of such income under IRS rules, and federal legislation is pending to address this issue. Thus, at the present time, none of these members can continue to accrue service credit while on active duty. They are, however, relieved of paying employee contributions during the period of military leave. As provided in USERRA, such members must wait until re-employment and pay back the member contributions they would have made had they been continuously employed so that service credit can be awarded. For vesting and accrual purposes, such members will still be treated as if they had been continuously employed.

Allowing employers to report these voluntary payments to DRS would enable some members to continue to accrue service credit during periods of interruptive military service for as long as their pension contributions are being paid. In some instances, this approach could result in service credit being awarded for a period of military service that does not result in an honorable discharge. It could also allow for benefit accruals even when the member, for whatever reason, does not return to the retirement system. Thus some members who never would have qualified for interruptive military service credit at all may be awarded service credit under this kind of provision. While such service credit could later be

forfeited, DRS reportedly does not have a mechanism for tracking those who do not return from service and who are dishonorably discharged. In addition, OSA staff has been advised that DRS has no mechanism to forfeit service credit when contributions have already been paid.

The above-described options have been explored by the LEOFF 2 Board as possible legislative options for 2005, although no action has been taken by the Board as of the date of this report.

### **Executive Committee Recommendation**

On September 7, 2005 the Executive Committee recommended that new legislation be presented to the full SCPP that would address the limitations of USERRA. These limitations have to do with the fact that under USERRA a veteran must be re-employed to trigger USERRA rights; and those who die or become totally disabled while in service are not able to reinstate service credit under USERRA because they are not re-employed. The Executive Committee also suggested that the SCPP consider amendments to existing law that would allow members whose public employment is interrupted by serving in the military and whose employers are voluntarily paying salary during military leave to accrue service credit while serving in the uniformed services. This would be accomplished by allowing such pay to be reported to the Department of Retirement Systems (DRS) for pension purposes, and allowing the accrual of corresponding service credit if the member and employer continue to pay the required pension contributions during the period of interruptive service.

A bill draft was prepared for the October 19, 2004 SCPP meeting and the full committee heard an updated report on this issue. The bill draft included three elements: one related to death in service, one related to total disability in service, and one related to voluntary employer payments during service. No action was taken by the full committee at that time. The Executive Committee, however, requested that the Department of Retirement Systems submit a memo to the full committee documenting its administrative and policy concerns with the third element of the bill draft, and that staff work with DRS to revise the draft legislation.

A second bill draft was presented to the Executive Committee on November 9, 2004. This draft included the death and disability elements, but deleted the employer pay element. The Executive Committee recommended that this second version of the bill be forwarded to the full committee.

### **Bill Draft**

The proposed bill draft is attached. The draft addresses service credit for those who are not re-employed due to death or total disability while serving in the uniformed services. As in the prior draft, where interruptive military service credit is already available to members at no cost, the draft continues the no-cost policy for survivors of deceased veterans and members who become totally disabled. LEOFF 1 is not included in the draft because members of that plan already receive free interruptive military service credit and there is no re-employment requirement.

### **Fiscal Note (Draft)**

A draft fiscal note is attached.

### **Administrative Impacts**

The Department of Retirement Systems provided written documentation of its concerns with the original (first) draft of the proposed legislation in its letter to the Chair and Vice Chair dated October 28, 2004. A copy of the letter is attached.

1. For complete information about USERRA, see the USERRA Advisor, <http://www.dol.gov/elaws/userra.htm>.

STATE OF WASHINGTON  
DEPARTMENT OF RETIREMENT SYSTEMS

**PO Box 48380 • Olympia WA 98504-8380 • (360) 664-7000 • Toll Free 1-800-547-6657**

October 28, 2004

The Honorable Karen Fraser, Chair  
The Honorable Steve Conway, Vice-Chair  
Select Committee on Pension Policy  
Post Office Box 40914  
Olympia, Washington 98504-0914

**RECEIVED**

OCT 28 2004

Office of  
The State Actuary

**Dear Senator Fraser and Representative Conway:**

**Subject: Purchase of Interruptive Military Service Credit**

At the October 19, 2004 Select Committee on Pension Policy (SCPP) meeting, the Department of Retirement Systems (DRS) was asked to provide input on the proposal to allow the purchase of retirement service credit for service men and women on interruptive military leave. DRS supports the death and disability provisions of the proposal, but has concerns about the third provision which would allow employers to report as earnable compensation any offset salary being paid to the employee.

Current Federal and State law on interruptive military service is consistent in two areas:

- It requires that service be designated as honorable.
- It requires the employee to return to covered service if he or she is able.

The death and disability proposals also require the military service to be deemed as honorable. If however, employers are allowed to report a salary offset to DRS (the third provision), a situation exists where the member may earn partial or total service credit for periods where the nature of the military service could be dishonorable, and where a return to employment is not required or does not occur. This creates an inequity in the treatment of those members not receiving the pay offset who must serve honorably and return to covered employment in order to purchase their missing service.

As I mentioned at the October 19<sup>th</sup> meeting, the current process for purchasing service for interruptive leave is both easy and efficient. With an average cost of approximately \$1,700 for nine months of service credit, a member can initiate the purchase with a simple phone call and can take up to five years to pay with no interest. Members may pay in installments or with a lump sum at anytime during the five years. This same process would be utilized to implement the death and disability proposals. While reporting an offset salary creates no additional cost by itself, there would be increased administrative cost if DRS is required to begin tracking offset pay and related service credit.

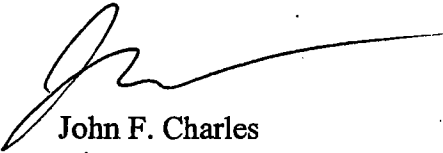


Senator Karen Fraser  
Representative Steve Conway  
October 28, 2004  
Page 2

As noted above, the death and disability proposals are in alignment with Federal and State law and the existing policy and process for purchasing interruptive military service. However, allowing service to be earned due to reporting offset pay goes beyond the current policy and creates inequity in the treatment of members. Based on this information I encourage the removal of the reporting of offset salary from the proposal.

Please contact me at 664-7312 if you would like to discuss this issue.

Sincerely,

A handwritten signature in black ink, appearing to be 'John F. Charles', with a long horizontal flourish extending to the right.

John F. Charles  
Director



1       AN ACT Relating to interruptive military service credit within the  
2 public employees' retirement system, the school employees' retirement  
3 system, the teachers' retirement system, the law enforcement officers'  
4 and fire fighters' retirement system plan 2, the Washington state  
5 patrol retirement system, and the public safety employees' retirement  
6 system; amending RCW 41.40.170, 41.40.710, 41.40.805, 41.35.470,  
7 41.35.650, 41.32.260, 41.32.810, 41.32.865, 41.26.520, 43.43.260, and  
8 41.37.260; and providing an effective date.

9       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10       **Sec. 1.** RCW 41.40.170 and 2002 c 27 s 2 are each amended to read  
11 as follows:

12       (1) A member who has served or shall serve on active federal  
13 service in the military or naval forces of the United States and who  
14 left or shall leave an employer to enter such service shall be deemed  
15 to be on military leave of absence if he or she has resumed or shall  
16 resume employment as an employee within one year from termination  
17 thereof.

18       (2) If he or she has applied or shall apply for reinstatement of  
19 employment, within one year from termination of the military service,

1 and is refused employment for reasons beyond his or her control, he or  
2 she shall, upon resumption of service within ten years have such  
3 service credited to him or her.

4 (3) In any event, after completing twenty-five years of creditable  
5 service, any member may have service in the armed forces credited to  
6 him or her as a member whether or not he or she left the employ of an  
7 employer to enter the armed service: PROVIDED, That in no instance,  
8 described in this section, shall military service in excess of five  
9 years be credited: AND PROVIDED FURTHER, That in each instance the  
10 member must restore all withdrawn accumulated contributions, which  
11 restoration must be completed within five years of membership service  
12 following the first resumption of employment or complete twenty-five  
13 years of creditable service: AND PROVIDED FURTHER, That this section  
14 will not apply to any individual, not a veteran within the meaning of  
15 RCW 41.04.005.

16 (4) The surviving spouse or eligible child or children of a member  
17 who left the employ of an employer to enter the uniformed services of  
18 the United States and died while serving in the uniformed services may,  
19 on behalf of the deceased member, apply for retirement system service  
20 credit under this subsection up to the date of the member's death in  
21 the uniformed services. The department shall establish the deceased  
22 member's service credit if the surviving spouse or eligible child or  
23 children:

24 (a) Provides to the director proof of the member's death while  
25 serving in the uniformed services; and

26 (b) Provides to the director proof of the member's honorable  
27 service in the uniformed services prior to the date of death.

28 (5) A member who leaves the employ of an employer to enter the  
29 uniformed services of the United States and becomes totally  
30 incapacitated for continued employment by an employer while serving in  
31 the uniformed services is entitled to retirement system service credit  
32 under this subsection up to the date of discharge from the uniformed  
33 services if:

34 (a) The member obtains a determination from the director that he or  
35 she is totally incapacitated for continued employment due to conditions  
36 or events that occurred while serving in the uniformed services; and

37 (b) The member provides to the director proof of honorable  
38 discharge from the uniformed services.

1       **Sec. 2.** RCW 41.40.710 and 2000 c 247 s 1106 are each amended to  
2 read as follows:

3       (1) A member who is on a paid leave of absence authorized by a  
4 member's employer shall continue to receive service credit as provided  
5 for under the provisions of RCW 41.40.610 through 41.40.740.

6       (2) A member who receives compensation from an employer while on an  
7 authorized leave of absence to serve as an elected official of a labor  
8 organization, and whose employer is reimbursed by the labor  
9 organization for the compensation paid to the member during the period  
10 of absence, may also be considered to be on a paid leave of absence.  
11 This subsection shall only apply if the member's leave of absence is  
12 authorized by a collective bargaining agreement that provides that the  
13 member retains seniority rights with the employer during the period of  
14 leave. The compensation earnable reported for a member who establishes  
15 service credit under this subsection may not be greater than the salary  
16 paid to the highest paid job class covered by the collective bargaining  
17 agreement.

18       (3) Except as specified in subsection (4) of this section, a member  
19 shall be eligible to receive a maximum of two years service credit  
20 during a member's entire working career for those periods when a member  
21 is on an unpaid leave of absence authorized by an employer. Such  
22 credit may be obtained only if:

23       (a) The member makes both the plan 2 employer and member  
24 contributions plus interest as determined by the department for the  
25 period of the authorized leave of absence within five years of  
26 resumption of service or prior to retirement whichever comes sooner; or

27       (b) If not within five years of resumption of service but prior to  
28 retirement, pay the amount required under RCW 41.50.165(2).

29       The contributions required under (a) of this subsection shall be  
30 based on the average of the member's compensation earnable at both the  
31 time the authorized leave of absence was granted and the time the  
32 member resumed employment.

33       (4) A member who leaves the employ of an employer to enter the  
34 ~~((armed forces))~~ uniformed services of the United States shall be  
35 entitled to retirement system service credit for up to five years of  
36 military service. This subsection shall be administered in a manner  
37 consistent with the requirements of the federal uniformed services  
38 employment and reemployment rights act.

1 (a) The member qualifies for service credit under this subsection  
2 if:

3 (i) Within ninety days of the member's honorable discharge from the  
4 uniformed services of the United States ((armed forces)), the member  
5 applies for reemployment with the employer who employed the member  
6 immediately prior to the member entering the ((United States armed  
7 forces)) uniformed services; and

8 (ii) The member makes the employee contributions required under RCW  
9 41.45.061 and 41.45.067 within five years of resumption of service or  
10 prior to retirement, whichever comes sooner; or

11 (iii) Prior to retirement and not within ninety days of the  
12 member's honorable discharge or five years of resumption of service the  
13 member pays the amount required under RCW 41.50.165(2).

14 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
15 or (e)(iii) of this subsection, the department shall establish the  
16 member's service credit and shall bill the employer for its  
17 contribution required under RCW 41.45.060, 41.45.061, and 41.45.067 for  
18 the period of military service, plus interest as determined by the  
19 department.

20 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)  
21 of this subsection shall be based on the compensation the member would  
22 have earned if not on leave, or if that cannot be estimated with  
23 reasonable certainty, the compensation reported for the member in the  
24 year prior to when the member went on military leave.

25 (d) The surviving spouse or eligible child or children of a member  
26 who left the employ of an employer to enter the uniformed services of  
27 the United States and died while serving in the uniformed services may,  
28 on behalf of the deceased member, apply for retirement system service  
29 credit under this subsection up to the date of the member's death in  
30 the uniformed services. The department shall establish the deceased  
31 member's service credit if the surviving spouse or eligible child or  
32 children:

33 (i) Provides to the director proof of the member's death while  
34 serving in the uniformed services;

35 (ii) Provides to the director proof of the member's honorable  
36 service in the uniformed services prior to the date of death; and

37 (iii) Pays the employee contributions required under chapter 41.45

1 RCW within five years of the date of death or prior to the distribution  
2 of any benefit, whichever comes first.

3 (e) A member who leaves the employ of an employer to enter the  
4 uniformed services of the United States and becomes totally  
5 incapacitated for continued employment by an employer while serving in  
6 the uniformed services is entitled to retirement system service credit  
7 under this subsection up to the date of discharge from the uniformed  
8 services if:

9 (i) The member obtains a determination from the director that he or  
10 she is totally incapacitated for continued employment due to conditions  
11 or events that occurred while serving in the uniformed services;

12 (ii) The member provides to the director proof of honorable  
13 discharge from the uniformed services; and

14 (iii) The member pays the employee contributions required under  
15 chapter 41.45 RCW within five years of the director's determination of  
16 total disability or prior to the distribution of any benefit, whichever  
17 comes first.

18 **Sec. 3.** RCW 41.40.805 and 2000 c 247 s 306 are each amended to  
19 read as follows:

20 (1) A member who is on a paid leave of absence authorized by a  
21 member's employer shall continue to receive service credit.

22 (2) A member who receives compensation from an employer while on an  
23 authorized leave of absence to serve as an elected official of a labor  
24 organization, and whose employer is reimbursed by the labor  
25 organization for the compensation paid to the member during the period  
26 of absence, may also be considered to be on a paid leave of absence.  
27 This subsection shall only apply if the member's leave of absence is  
28 authorized by a collective bargaining agreement that provides that the  
29 member retains seniority rights with the employer during the period of  
30 leave. The earnable compensation reported for a member who establishes  
31 service credit under this subsection may not be greater than the salary  
32 paid to the highest paid job class covered by the collective bargaining  
33 agreement.

34 (3) Except as specified in subsection (4) of this section, a member  
35 shall be eligible to receive a maximum of two years service credit  
36 during a member's entire working career for those periods when a member

1 is on an unpaid leave of absence authorized by an employer. Such  
2 credit may be obtained only if:

3 (a) The member makes the contribution on behalf of the employer,  
4 plus interest, as determined by the department; and

5 (b) The member makes the employee contribution, plus interest, as  
6 determined by the department, to the defined contribution portion.

7 The contributions required shall be based on the average of the  
8 member's earnable compensation at both the time the authorized leave of  
9 absence was granted and the time the member resumed employment.

10 (4) A member who leaves the employ of an employer to enter the  
11 (~~((armed forces))~~) uniformed services of the United States shall be  
12 entitled to retirement system service credit for up to five years of  
13 military service if within ninety days of the member's honorable  
14 discharge from the uniformed services of the United States (~~((armed~~  
15 ~~forces))~~), the member applies for reemployment with the employer who  
16 employed the member immediately prior to the member entering the  
17 (~~((United States armed forces))~~) uniformed services. This subsection  
18 shall be administered in a manner consistent with the requirements of  
19 the federal uniformed services employment and reemployment rights act.

20 The department shall establish the member's service credit and  
21 shall bill the employer for its contribution required under RCW  
22 41.45.060 and 41.45.067 for the period of military service, plus  
23 interest as determined by the department. Service credit under this  
24 subsection may be obtained only if the member makes the employee  
25 contribution to the defined contribution portion as determined by the  
26 department.

27 The contributions required shall be based on the compensation the  
28 member would have earned if not on leave, or if that cannot be  
29 estimated with reasonable certainty, the compensation reported for the  
30 member in the year prior to when the member went on military leave.

31 (a) The surviving spouse or eligible child or children of a member  
32 who left the employ of an employer to enter the uniformed services of  
33 the United States and died while serving in the uniformed services may,  
34 on behalf of the deceased member, apply for retirement system service  
35 credit under this subsection up to the date of the member's death in  
36 the uniformed services. The department shall establish the deceased  
37 member's service credit if the surviving spouse or eligible child or  
38 children:

1 (i) Provides to the director proof of the member's death while  
2 serving in the uniformed services;

3 (ii) Provides to the director proof of the member's honorable  
4 service in the uniformed services prior to the date of death; and

5 (iii) Pays the employee contributions required under this  
6 subsection within five years of the date of death or prior to the  
7 distribution of any benefit, whichever comes first.

8 (b) A member who leaves the employ of an employer to enter the  
9 uniformed services of the United States and becomes totally  
10 incapacitated for continued employment by an employer while serving in  
11 the uniformed services is entitled to retirement system service credit  
12 under this subsection up to the date of discharge from the uniformed  
13 services if:

14 (i) The member obtains a determination from the director that he or  
15 she is totally incapacitated for continued employment due to conditions  
16 or events that occurred while serving in the uniformed services;

17 (ii) The member provides to the director proof of honorable  
18 discharge from the uniformed services; and

19 (iii) The member pays the employee contributions required under  
20 this subsection within five years of the director's determination of  
21 total disability or prior to the distribution of any benefit, whichever  
22 comes first.

23 **Sec. 4.** RCW 41.35.470 and 1998 c 341 s 108 are each amended to  
24 read as follows:

25 (1) A member who is on a paid leave of absence authorized by a  
26 member's employer shall continue to receive service credit as provided  
27 for under the provisions of RCW 41.35.400 through 41.35.599.

28 (2) A member who receives compensation from an employer while on an  
29 authorized leave of absence to serve as an elected official of a labor  
30 organization, and whose employer is reimbursed by the labor  
31 organization for the compensation paid to the member during the period  
32 of absence, may also be considered to be on a paid leave of absence.  
33 This subsection shall only apply if the member's leave of absence is  
34 authorized by a collective bargaining agreement that provides that the  
35 member retains seniority rights with the employer during the period of  
36 leave. The compensation earnable reported for a member who establishes

1 service credit under this subsection may not be greater than the salary  
2 paid to the highest paid job class covered by the collective bargaining  
3 agreement.

4 (3) Except as specified in subsection (4) of this section, a member  
5 shall be eligible to receive a maximum of two years service credit  
6 during a member's entire working career for those periods when a member  
7 is on an unpaid leave of absence authorized by an employer. Such  
8 credit may be obtained only if:

9 (a) The member makes both the plan 2 employer and member  
10 contributions plus interest as determined by the department for the  
11 period of the authorized leave of absence within five years of  
12 resumption of service or prior to retirement whichever comes sooner; or

13 (b) If not within five years of resumption of service but prior to  
14 retirement, pay the amount required under RCW 41.50.165(2).

15 The contributions required under (a) of this subsection shall be  
16 based on the average of the member's compensation earnable at both the  
17 time the authorized leave of absence was granted and the time the  
18 member resumed employment.

19 (4) A member who leaves the employ of an employer to enter the  
20 (~~((armed forces))~~) uniformed services of the United States shall be  
21 entitled to retirement system service credit for up to five years of  
22 military service. This subsection shall be administered in a manner  
23 consistent with the requirements of the federal uniformed services  
24 employment and reemployment rights act.

25 (a) The member qualifies for service credit under this subsection  
26 if:

27 (i) Within ninety days of the member's honorable discharge from the  
28 uniformed services of the United States (~~((armed forces))~~), the member  
29 applies for reemployment with the employer who employed the member  
30 immediately prior to the member entering the (~~((United States armed~~  
31 ~~forces))~~) uniformed services; and

32 (ii) The member makes the employee contributions required under RCW  
33 41.35.430 within five years of resumption of service or prior to  
34 retirement, whichever comes sooner; or

35 (iii) Prior to retirement and not within ninety days of the  
36 member's honorable discharge or five years of resumption of service the  
37 member pays the amount required under RCW 41.50.165(2).



1 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
2 or (e)(iii) of this subsection, the department shall establish the  
3 member's service credit and shall bill the employer for its  
4 contribution required under RCW 41.35.430 for the period of military  
5 service, plus interest as determined by the department.

6 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)  
7 of this subsection shall be based on the compensation the member would  
8 have earned if not on leave, or if that cannot be estimated with  
9 reasonable certainty, the compensation reported for the member in the  
10 year prior to when the member went on military leave.

11 (d) The surviving spouse or eligible child or children of a member  
12 who left the employ of an employer to enter the uniformed services of  
13 the United States and died while serving in the uniformed services may,  
14 on behalf of the deceased member, apply for retirement system service  
15 credit under this subsection up to the date of the member's death in  
16 the uniformed services. The department shall establish the deceased  
17 member's service credit if the surviving spouse or eligible child or  
18 children:

19 (i) Provides to the director proof of the member's death while  
20 serving in the uniformed services;

21 (ii) Provides to the director proof of the member's honorable  
22 service in the uniformed services prior to the date of death; and

23 (iii) Pays the employee contributions required under chapter 41.45  
24 RCW within five years of the date of death or prior to the distribution  
25 of any benefit, whichever comes first.

26 (e) A member who leaves the employ of an employer to enter the  
27 uniformed services of the United States and becomes totally  
28 incapacitated for continued employment by an employer while serving in  
29 the uniformed services is entitled to retirement system service credit  
30 under this subsection up to the date of discharge from the uniformed  
31 services if:

32 (i) The member obtains a determination from the director that he or  
33 she is totally incapacitated for continued employment due to conditions  
34 or events that occurred while serving in the uniformed services;

35 (ii) The member provides to the director proof of honorable  
36 discharge from the uniformed services; and

37 (iii) The member pays the employee contributions required under

1 chapter 41.45 RCW within five years of the director's determination of  
2 total disability or prior to the distribution of any benefit, whichever  
3 comes first.

4       **Sec. 5.** RCW 41.35.650 and 1998 c 341 s 206 are each amended to  
5 read as follows:

6       (1) A member who is on a paid leave of absence authorized by a  
7 member's employer shall continue to receive service credit.

8       (2) A member who receives compensation from an employer while on an  
9 authorized leave of absence to serve as an elected official of a labor  
10 organization, and whose employer is reimbursed by the labor  
11 organization for the compensation paid to the member during the period  
12 of absence, may also be considered to be on a paid leave of absence.  
13 This subsection shall only apply if the member's leave of absence is  
14 authorized by a collective bargaining agreement that provides that the  
15 member retains seniority rights with the employer during the period of  
16 leave. The earnable compensation reported for a member who establishes  
17 service credit under this subsection may not be greater than the salary  
18 paid to the highest paid job class covered by the collective bargaining  
19 agreement.

20       (3) Except as specified in subsection (4) of this section, a member  
21 shall be eligible to receive a maximum of two years service credit  
22 during a member's entire working career for those periods when a member  
23 is on an unpaid leave of absence authorized by an employer. Such  
24 credit may be obtained only if:

25       (a) The member makes the contribution on behalf of the employer,  
26 plus interest, as determined by the department; and

27       (b) The member makes the employee contribution, plus interest, as  
28 determined by the department, to the defined contribution portion.

29       The contributions required shall be based on the average of the  
30 member's earnable compensation at both the time the authorized leave of  
31 absence was granted and the time the member resumed employment.

32       (4) A member who leaves the employ of an employer to enter the  
33 ~~((armed forces))~~ uniformed services of the United States shall be  
34 entitled to retirement system service credit for up to five years of  
35 military service if within ninety days of the member's honorable  
36 discharge from the uniformed services of the United States ~~((armed~~  
37 ~~forces))~~, the member applies for reemployment with the employer who

1 employed the member immediately prior to the member entering the  
2 ((United States armed forces)) uniformed services. This subsection  
3 shall be administered in a manner consistent with the requirements of  
4 the federal uniformed services employment and reemployment rights act.

5 The department shall establish the member's service credit and  
6 shall bill the employer for its contribution required under RCW  
7 41.35.720 for the period of military service, plus interest as  
8 determined by the department. Service credit under this subsection may  
9 be obtained only if the member makes the employee contribution to the  
10 defined contribution portion as determined by the department.

11 The contributions required shall be based on the compensation the  
12 member would have earned if not on leave, or if that cannot be  
13 estimated with reasonable certainty, the compensation reported for the  
14 member in the year prior to when the member went on military leave.

15 (a) The surviving spouse or eligible child or children of a member  
16 who left the employ of an employer to enter the uniformed services of  
17 the United States and died while serving in the uniformed services may,  
18 on behalf of the deceased member, apply for retirement system service  
19 credit under this subsection up to the date of the member's death in  
20 the uniformed services. The department shall establish the deceased  
21 member's service credit if the surviving spouse or eligible child or  
22 children:

23 (i) Provides to the director proof of the member's death while  
24 serving in the uniformed services;

25 (ii) Provides to the director proof of the member's honorable  
26 service in the uniformed services prior to the date of death; and

27 (iii) Pays the employee contributions required under this  
28 subsection within five years of the date of death or prior to the  
29 distribution of any benefit, whichever comes first.

30 (b) A member who leaves the employ of an employer to enter the  
31 uniformed services of the United States and becomes totally  
32 incapacitated for continued employment by an employer while serving in  
33 the uniformed services is entitled to retirement system service credit  
34 under this subsection up to the date of discharge from the uniformed  
35 services if:

36 (i) The member obtains a determination from the director that he or  
37 she is totally incapacitated for continued employment due to conditions  
38 or events that occurred while serving in the uniformed services;

1        (ii) The member provides to the director proof of honorable  
2 discharge from the uniformed services; and

3        (iii) The member pays the employee contributions required under  
4 this subsection within five years of the director's determination of  
5 total disability or prior to the distribution of any benefit, whichever  
6 comes first.

7        **Sec. 6.** RCW 41.32.260 and 1992 c 212 s 8 are each amended to read  
8 as follows:

9        Any member whose public school service is interrupted by active  
10 service to the United States as a member of its (~~military, naval or~~  
11 ~~air service~~) uniformed services, or to the state of Washington, as a  
12 member of the legislature, may upon becoming reemployed in the public  
13 schools, receive credit for that service upon presenting satisfactory  
14 proof, and contributing to the member reserve, either in a lump sum or  
15 installments, amounts determined by the director. Except that no  
16 military service credit in excess of five years shall be established or  
17 reestablished after July 1, 1961, unless the service was actually  
18 rendered during time of war. This section shall be administered in a  
19 manner consistent with the requirements of the federal uniformed  
20 services employment and reemployment rights act.

21        (1) The surviving spouse or eligible child or children of a member  
22 who left the employ of an employer to enter the uniformed services of  
23 the United States and died while serving in the uniformed services may,  
24 on behalf of the deceased member, apply for retirement system service  
25 credit under this subsection up to the date of the member's death in  
26 the uniformed services. The department shall establish the deceased  
27 member's service credit if the surviving spouse or eligible child or  
28 children:

29        (a) Provides to the director proof of the member's death while  
30 serving in the uniformed services;

31        (b) Provides to the director proof of the member's honorable  
32 service in the uniformed services prior to the date of death; and

33        (c) Pays the employee contributions required under chapter 41.45  
34 RCW within five years of the date of death or prior to the distribution  
35 of any benefit, whichever comes first.

36        (2) A member who leaves the employ of an employer to enter the  
37 uniformed services of the United States and becomes totally

1 incapacitated for continued employment by an employer while serving in  
2 the uniformed services is entitled to retirement system service credit  
3 under this subsection up to the date of discharge from the uniformed  
4 services if:

5 (a) The member obtains a determination from the director that he or  
6 she is totally incapacitated for continued employment due to conditions  
7 or events that occurred while serving in the uniformed services;

8 (b) The member provides to the director proof of honorable  
9 discharge from the uniformed services; and

10 (c) The member pays the employee contributions required under  
11 chapter 41.45 RCW within five years of the director's determination of  
12 total disability or prior to the distribution of any benefit, whichever  
13 comes first.

14 **Sec. 7.** RCW 41.32.810 and 1996 c 61 s 2 are each amended to read  
15 as follows:

16 (1) A member who is on a paid leave of absence authorized by a  
17 member's employer shall continue to receive service credit as provided  
18 for under the provisions of RCW 41.32.755 through 41.32.825.

19 (2) A member who receives compensation from an employer while on an  
20 authorized leave of absence to serve as an elected official of a labor  
21 organization, and whose employer is reimbursed by the labor  
22 organization for the compensation paid to the member during the period  
23 of absence, may also be considered to be on a paid leave of absence.  
24 This subsection shall only apply if the member's leave of absence is  
25 authorized by a collective bargaining agreement that provides that the  
26 member retains seniority rights with the employer during the period of  
27 leave. The earnable compensation reported for a member who establishes  
28 service credit under this subsection may not be greater than the salary  
29 paid to the highest paid job class covered by the collective bargaining  
30 agreement.

31 (3) Except as specified in subsection (6) of this section, a member  
32 shall be eligible to receive a maximum of two years service credit  
33 during a member's entire working career for those periods when a member  
34 is on an unpaid leave of absence authorized by an employer. Such  
35 credit may be obtained only if the member makes both the employer and  
36 member contributions plus interest as determined by the department for

1 the period of the authorized leave of absence within five years of  
2 resumption of service or prior to retirement whichever comes sooner.

3 (4) If a member fails to meet the time limitations of subsection  
4 (3) of this section, the member may receive a maximum of two years of  
5 service credit during a member's working career for those periods when  
6 a member is on unpaid leave of absence authorized by an employer. This  
7 may be done by paying the amount required under RCW 41.50.165(2) prior  
8 to retirement.

9 (5) For the purpose of subsection (3) of this section, the  
10 contribution shall not include the contribution for the unfunded  
11 supplemental present value as required by RCW 41.32.775. The  
12 contributions required shall be based on the average of the member's  
13 earnable compensation at both the time the authorized leave of absence  
14 was granted and the time the member resumed employment.

15 (6) A member who leaves the employ of an employer to enter the  
16 (~~(armed forces)~~) uniformed services of the United States shall be  
17 entitled to retirement system service credit for up to five years of  
18 military service. This subsection shall be administered in a manner  
19 consistent with the requirements of the federal uniformed services  
20 employment and reemployment rights act.

21 (a) The member qualifies for service credit under this subsection  
22 if:

23 (i) Within ninety days of the member's honorable discharge from the  
24 uniformed services of the United States (~~(armed forces)~~), the member  
25 applies for reemployment with the employer who employed the member  
26 immediately prior to the member entering the (~~(United States armed~~  
27 ~~forces)~~) uniformed services; and

28 (ii) The member makes the employee contributions required under RCW  
29 41.32.775 within five years of resumption of service or prior to  
30 retirement, whichever comes sooner; or

31 (iii) Prior to retirement and not within ninety days of the  
32 member's honorable discharge or five years of resumption of service the  
33 member pays the amount required under RCW 41.50.165(2).

34 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
35 or (e)(iii) of this subsection, the department shall establish the  
36 member's service credit and shall bill the employer for its  
37 contribution required under RCW 41.32.775 for the period of military  
38 service, plus interest as determined by the department.

1       (c) The contributions required under (a) (ii), (d) (iii), or (e) (iii)  
2 of this subsection shall be based on the compensation the member would  
3 have earned if not on leave, or if that cannot be estimated with  
4 reasonable certainty, the compensation reported for the member in the  
5 year prior to when the member went on military leave.

6       (d) The surviving spouse or eligible child or children of a member  
7 who left the employ of an employer to enter the uniformed services of  
8 the United States and died while serving in the uniformed services may,  
9 on behalf of the deceased member, apply for retirement system service  
10 credit under this subsection up to the date of the member's death in  
11 the uniformed services. The department shall establish the deceased  
12 member's service credit if the surviving spouse or eligible child or  
13 children:

14       (i) Provides to the director proof of the member's death while  
15 serving in the uniformed services;

16       (ii) Provides to the director proof of the member's honorable  
17 service in the uniformed services prior to the date of death; and

18       (iii) Pays the employee contributions required under chapter 41.45  
19 RCW within five years of the date of death or prior to the distribution  
20 of any benefit, whichever comes first.

21       (e) A member who leaves the employ of an employer to enter the  
22 uniformed services of the United States and becomes totally  
23 incapacitated for continued employment by an employer while serving in  
24 the uniformed services is entitled to retirement system service credit  
25 under this subsection up to the date of discharge from the uniformed  
26 services if:

27       (i) The member obtains a determination from the director that he or  
28 she is totally incapacitated for continued employment due to conditions  
29 or events that occurred while serving in the uniformed services;

30       (ii) The member provides to the director proof of honorable  
31 discharge from the uniformed services; and

32       (iii) The member pays the employee contributions required under  
33 chapter 41.45 RCW within five years of the director's determination of  
34 total disability or prior to the distribution of any benefit, whichever  
35 comes first.

36       **Sec. 8.** RCW 41.32.865 and 1996 c 61 s 3 are each amended to read  
37 as follows:

1 (1) A member who is on a paid leave of absence authorized by a  
2 member's employer shall continue to receive service credit.

3 (2) A member who receives compensation from an employer while on an  
4 authorized leave of absence to serve as an elected official of a labor  
5 organization, and whose employer is reimbursed by the labor  
6 organization for the compensation paid to the member during the period  
7 of absence, may also be considered to be on a paid leave of absence.  
8 This subsection shall only apply if the member's leave of absence is  
9 authorized by a collective bargaining agreement that provides that the  
10 member retains seniority rights with the employer during the period of  
11 leave. The earnable compensation reported for a member who establishes  
12 service credit under this subsection may not be greater than the salary  
13 paid to the highest paid job class covered by the collective bargaining  
14 agreement.

15 (3) Except as specified in subsection (4) of this section, a member  
16 shall be eligible to receive a maximum of two years service credit  
17 during a member's entire working career for those periods when a member  
18 is on an unpaid leave of absence authorized by an employer. Such  
19 credit may be obtained only if:

20 (a) The member makes the contribution on behalf of the employer,  
21 plus interest, as determined by the department; and

22 (b) The member makes the employee contribution, plus interest, as  
23 determined by the department, to the defined contribution portion.

24 The contributions required shall be based on the average of the  
25 member's earnable compensation at both the time the authorized leave of  
26 absence was granted and the time the member resumed employment.

27 (4) A member who leaves the employ of an employer to enter the  
28 (~~((armed forces))~~) uniformed services of the United States shall be  
29 entitled to retirement system service credit for up to five years of  
30 military service if within ninety days of the member's honorable  
31 discharge from the uniformed services of the United States (~~((armed~~  
32 ~~forces))~~), the member applies for reemployment with the employer who  
33 employed the member immediately prior to the member entering the  
34 (~~((United States armed forces))~~) uniformed services. This subsection  
35 shall be administered in a manner consistent with the requirements of  
36 the federal uniformed services employment and reemployment rights act.

37 The department shall establish the member's service credit and  
38 shall bill the employer for its contribution required under chapter



1 239, Laws of 1995 for the period of military service, plus interest as  
2 determined by the department. Service credit under this subsection may  
3 be obtained only if the member makes the employee contribution to the  
4 defined contribution portion as determined by the department.

5 The contributions required shall be based on the compensation the  
6 member would have earned if not on leave, or if that cannot be  
7 estimated with reasonable certainty, the compensation reported for the  
8 member in the year prior to when the member went on military leave.

9 (a) The surviving spouse or eligible child or children of a member  
10 who left the employ of an employer to enter the uniformed services of  
11 the United States and died while serving in the uniformed services may,  
12 on behalf of the deceased member, apply for retirement system service  
13 credit under this subsection up to the date of the member's death in  
14 the uniformed services. The department shall establish the deceased  
15 member's service credit if the surviving spouse or eligible child or  
16 children:

17 (i) Provides to the director proof of the member's death while  
18 serving in the uniformed services;

19 (ii) Provides to the director proof of the member's honorable  
20 service in the uniformed services prior to the date of death; and

21 (iii) Pays the employee contributions required under this  
22 subsection within five years of the date of death or prior to the  
23 distribution of any benefit, whichever comes first.

24 (b) A member who leaves the employ of an employer to enter the  
25 uniformed services of the United States and becomes totally  
26 incapacitated for continued employment by an employer while serving in  
27 the uniformed services is entitled to retirement system service credit  
28 under this subsection up to the date of discharge from the uniformed  
29 services if:

30 (i) The member obtains a determination from the director that he or  
31 she is totally incapacitated for continued employment due to conditions  
32 or events that occurred while serving in the uniformed services;

33 (ii) The member provides to the director proof of honorable  
34 discharge from the uniformed services; and

35 (iii) The member pays the employee contributions required under  
36 this subsection within five years of the director's determination of  
37 total disability or prior to the distribution of any benefit, whichever  
38 comes first.

1       **Sec. 9.** RCW 41.26.520 and 2002 c 28 s 1 are each amended to read  
2 as follows:

3       (1) A member who is on a paid leave of absence authorized by a  
4 member's employer shall continue to receive service credit as provided  
5 for under the provisions of RCW 41.26.410 through 41.26.550.

6       (2) A member who receives compensation from an employer while on an  
7 authorized leave of absence to serve as an elected official of a labor  
8 organization, and whose employer is reimbursed by the labor  
9 organization for the compensation paid to the member during the period  
10 of absence, may also be considered to be on a paid leave of absence.  
11 This subsection shall only apply if the member's leave of absence is  
12 authorized by a collective bargaining agreement that provides that the  
13 member retains seniority rights with the employer during the period of  
14 leave. The basic salary reported for a member who establishes service  
15 credit under this subsection may not be greater than the salary paid to  
16 the highest paid job class covered by the collective bargaining  
17 agreement.

18       (3) Except as specified in subsection (7) of this section, a member  
19 shall be eligible to receive a maximum of two years service credit  
20 during a member's entire working career for those periods when a member  
21 is on an unpaid leave of absence authorized by an employer. Such  
22 credit may be obtained only if the member makes the employer, member,  
23 and state contributions plus interest as determined by the department  
24 for the period of the authorized leave of absence within five years of  
25 resumption of service or prior to retirement whichever comes sooner.

26       (4) A law enforcement member may be authorized by an employer to  
27 work part time and to go on a part-time leave of absence. During a  
28 part-time leave of absence a member is prohibited from any other  
29 employment with their employer. A member is eligible to receive credit  
30 for any portion of service credit not earned during a month of part-  
31 time leave of absence if the member makes the employer, member, and  
32 state contributions, plus interest, as determined by the department for  
33 the period of the authorized leave within five years of resumption of  
34 full-time service or prior to retirement whichever comes sooner. Any  
35 service credit purchased for a part-time leave of absence is included  
36 in the two-year maximum provided in subsection (3) of this section.

37       (5) If a member fails to meet the time limitations of subsection  
38 (3) or (4) of this section, the member may receive a maximum of two

1 years of service credit during a member's working career for those  
2 periods when a member is on unpaid leave of absence authorized by an  
3 employer. This may be done by paying the amount required under RCW  
4 41.50.165(2) prior to retirement.

5 (6) For the purpose of subsection (3) or (4) of this section the  
6 contribution shall not include the contribution for the unfunded  
7 supplemental present value as required by RCW 41.45.060, 41.45.061, and  
8 41.45.067. The contributions required shall be based on the average of  
9 the member's basic salary at both the time the authorized leave of  
10 absence was granted and the time the member resumed employment.

11 (7) A member who leaves the employ of an employer to enter the  
12 (~~((armed forces))~~) uniformed services of the United States shall be  
13 entitled to retirement system service credit for up to five years of  
14 military service. This subsection shall be administered in a manner  
15 consistent with the requirements of the federal uniformed services  
16 employment and reemployment rights act.

17 (a) The member qualifies for service credit under this subsection  
18 if:

19 (i) Within ninety days of the member's honorable discharge from the  
20 uniformed services of the United States (~~((armed forces))~~), the member  
21 applies for reemployment with the employer who employed the member  
22 immediately prior to the member entering the (~~((United States armed~~  
23 ~~forces))~~) uniformed services; and

24 (ii) The member makes the employee contributions required under RCW  
25 41.45.060, 41.45.061, and 41.45.067 within five years of resumption of  
26 service or prior to retirement, whichever comes sooner; or

27 (iii) Prior to retirement and not within ninety days of the  
28 member's honorable discharge or five years of resumption of service the  
29 member pays the amount required under RCW 41.50.165(2).

30 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
31 or (e)(iii) of this subsection, the department shall establish the  
32 member's service credit and shall bill the employer and the state for  
33 their respective contributions required under RCW 41.26.450 for the  
34 period of military service, plus interest as determined by the  
35 department.

36 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)  
37 of this subsection shall be based on the compensation the member would

1 have earned if not on leave, or if that cannot be estimated with  
2 reasonable certainty, the compensation reported for the member in the  
3 year prior to when the member went on military leave.

4 (d) The surviving spouse or eligible child or children of a member  
5 who left the employ of an employer to enter the uniformed services of  
6 the United States and died while serving in the uniformed services may,  
7 on behalf of the deceased member, apply for retirement system service  
8 credit under this subsection up to the date of the member's death in  
9 the uniformed services. The department shall establish the deceased  
10 member's service credit if the surviving spouse or eligible child or  
11 children:

12 (i) Provides to the director proof of the member's death while  
13 serving in the uniformed services;

14 (ii) Provides to the director proof of the member's honorable  
15 service in the uniformed services prior to the date of death; and

16 (iii) Pays the employee contributions required under chapter 41.45  
17 RCW within five years of the date of death or prior to the distribution  
18 of any benefit, whichever comes first.

19 (e) A member who leaves the employ of an employer to enter the  
20 uniformed services of the United States and becomes totally  
21 incapacitated for continued employment by an employer while serving in  
22 the uniformed services is entitled to retirement system service credit  
23 under this subsection up to the date of discharge from the uniformed  
24 services if:

25 (i) The member obtains a determination from the director that he or  
26 she is totally incapacitated for continued employment due to conditions  
27 or events that occurred while serving in the uniformed services;

28 (ii) The member provides to the director proof of honorable  
29 discharge from the uniformed services; and

30 (iii) The member pays the employee contributions required under  
31 chapter 41.45 RCW within five years of the director's determination of  
32 total disability or prior to the distribution of any benefit, whichever  
33 comes first.

34 (8) A member receiving benefits under Title 51 RCW who is not  
35 receiving benefits under this chapter shall be deemed to be on unpaid,  
36 authorized leave of absence.

1       **Sec. 10.** RCW 43.43.260 and 2002 c 27 s 3 are each amended to read  
2 as follows:

3       Upon retirement from service as provided in RCW 43.43.250, a member  
4 shall be granted a retirement allowance which shall consist of:

5       (1) A prior service allowance which shall be equal to two percent  
6 of the member's average final salary multiplied by the number of years  
7 of prior service rendered by the member.

8       (2) A current service allowance which shall be equal to two percent  
9 of the member's average final salary multiplied by the number of years  
10 of service rendered while a member of the retirement system.

11       (3)(a) Any member commissioned prior to January 1, 2003, with  
12 twenty-five years service in the Washington state patrol may have the  
13 member's service in the ((armed forces)) uniformed services credited as  
14 a member whether or not the individual left the employ of the  
15 Washington state patrol to enter such ((armed forces)) uniformed  
16 services: PROVIDED, That in no instance shall military service in  
17 excess of five years be credited: AND PROVIDED FURTHER, That in each  
18 instance, a member must restore all withdrawn accumulated  
19 contributions, which restoration must be completed on the date of the  
20 member's retirement, or as provided under RCW 43.43.130, whichever  
21 occurs first: AND PROVIDED FURTHER, That this section shall not apply  
22 to any individual, not a veteran within the meaning of RCW 41.06.150.

23       (b) A member who leaves the Washington state patrol to enter the  
24 ((armed forces)) uniformed services of the United States shall be  
25 entitled to retirement system service credit for up to five years of  
26 military service. This subsection shall be administered in a manner  
27 consistent with the requirements of the federal uniformed services  
28 employment and reemployment rights act.

29       (i) The member qualifies for service credit under this subsection  
30 if:

31       (A) Within ninety days of the member's honorable discharge from the  
32 uniformed services of the United States ((armed forces)), the member  
33 applies for reemployment with the employer who employed the member  
34 immediately prior to the member entering the ((United States armed  
35 forces)) uniformed services; and

36       (B) The member makes the employee contributions required under RCW  
37 41.45.0631 and 41.45.067 within five years of resumption of service or  
38 prior to retirement, whichever comes sooner; or

1 (C) Prior to retirement and not within ninety days of the member's  
2 honorable discharge or five years of resumption of service the member  
3 pays the amount required under RCW 41.50.165(2).

4 (ii) Upon receipt of member contributions under (b)(i)(B),  
5 (b)(iv)(C), and (b)(v)(C) of this subsection, the department shall  
6 establish the member's service credit and shall bill the employer for  
7 its contribution required under RCW 41.45.060 for the period of  
8 military service, plus interest as determined by the department.

9 (iii) The contributions required under (b)(i)(B), (b)(iv)(C), and  
10 (b)(v)(C) of this subsection shall be based on the compensation the  
11 member would have earned if not on leave, or if that cannot be  
12 estimated with reasonable certainty, the compensation reported for the  
13 member in the year prior to when the member went on military leave.

14 (iv) The surviving spouse or eligible child or children of a member  
15 who left the employ of an employer to enter the uniformed services of  
16 the United States and died while serving in the uniformed services may,  
17 on behalf of the deceased member, apply for retirement system service  
18 credit under this subsection up to the date of the member's death in  
19 the uniformed services. The department shall establish the deceased  
20 member's service credit if the surviving spouse or eligible child or  
21 children:

22 (A) Provides to the director proof of the member's death while  
23 serving in the uniformed services;

24 (B) Provides to the director proof of the member's honorable  
25 service in the uniformed services prior to the date of death; and

26 (C) If the member was commissioned on or after January 1, 2003,  
27 pays the employee contributions required under chapter 41.45 RCW within  
28 five years of the date of death or prior to the distribution of any  
29 benefit, whichever comes first.

30 (v) A member who leaves the employ of an employer to enter the  
31 uniformed services of the United States and becomes totally  
32 incapacitated for continued employment by an employer while serving in  
33 the uniformed services is entitled to retirement system service credit  
34 under this subsection up to the date of discharge from the uniformed  
35 services if:

36 (A) The member obtains a determination from the director that he or  
37 she is totally incapacitated for continued employment due to conditions  
38 or events that occurred while serving in the uniformed services;

1       (B) The member provides to the director proof of honorable  
2       discharge from the uniformed services; and

3       (C) If the member was commissioned on or after January 1, 2003, the  
4       member pays the employee contributions required under chapter 41.45 RCW  
5       within five years of the director's determination of total disability  
6       or prior to the distribution of any benefit, whichever comes first.

7       (4) In no event shall the total retirement benefits from  
8       subsections (1), (2), and (3) of this section, of any member exceed  
9       seventy-five percent of the member's average final salary.

10       (5) Beginning July 1, 2001, and every year thereafter, the  
11       department shall determine the following information for each retired  
12       member or beneficiary whose retirement allowance has been in effect for  
13       at least one year:

14       (a) The original dollar amount of the retirement allowance;

15       (b) The index for the calendar year prior to the effective date of  
16       the retirement allowance, to be known as "index A";

17       (c) The index for the calendar year prior to the date of  
18       determination, to be known as "index B"; and

19       (d) The ratio obtained when index B is divided by index A.

20       The value of the ratio obtained shall be the annual adjustment to  
21       the original retirement allowance and shall be applied beginning with  
22       the July payment. In no event, however, shall the annual adjustment:

23       (i) Produce a retirement allowance which is lower than the original  
24       retirement allowance;

25       (ii) Exceed three percent in the initial annual adjustment; or

26       (iii) Differ from the previous year's annual adjustment by more  
27       than three percent.

28       For the purposes of this section, "index" means, for any calendar  
29       year, that year's average consumer price index for the Seattle-Tacoma-  
30       Bremerton Washington area for urban wage earners and clerical workers,  
31       all items, compiled by the bureau of labor statistics, United States  
32       department of labor.

33       The provisions of this section shall apply to all members presently  
34       retired and to all members who shall retire in the future.

35       **Sec. 11.** RCW 41.37.260 and 2004 c 242 s 32 are each amended to  
36       read as follows:

1 (1) A member who is on a paid leave of absence authorized by a  
2 member's employer shall continue to receive service credit as provided  
3 for under RCW 41.37.190 through 41.37.290.

4 (2) A member who receives compensation from an employer while on an  
5 authorized leave of absence to serve as an elected official of a labor  
6 organization, and whose employer is reimbursed by the labor  
7 organization for the compensation paid to the member during the period  
8 of absence, may also be considered to be on a paid leave of absence.  
9 This subsection shall only apply if the member's leave of absence is  
10 authorized by a collective bargaining agreement that provides that the  
11 member retains seniority rights with the employer during the period of  
12 leave. The compensation earnable reported for a member who establishes  
13 service credit under this subsection may not be greater than the salary  
14 paid to the highest paid job class covered by the collective bargaining  
15 agreement.

16 (3) Except as specified in subsection (4) of this section, a member  
17 shall be eligible to receive a maximum of two years service credit  
18 during a member's entire working career for those periods when a member  
19 is on an unpaid leave of absence authorized by an employer. This  
20 credit may be obtained only if:

21 (a) The member makes both the employer and member contributions  
22 plus interest as determined by the department for the period of the  
23 authorized leave of absence within five years of resumption of service  
24 or prior to retirement whichever comes sooner; or

25 (b) If not within five years of resumption of service but prior to  
26 retirement, pay the amount required under RCW 41.50.165(2).

27 The contributions required under (a) of this subsection shall be  
28 based on the average of the member's compensation earnable at both the  
29 time the authorized leave of absence was granted and the time the  
30 member resumed employment.

31 (4) A member who leaves the employ of an employer to enter the  
32 (~~(armed forces)~~) uniformed services of the United States shall be  
33 entitled to retirement system service credit for up to five years of  
34 military service. This subsection shall be administered in a manner  
35 consistent with the requirements of the federal uniformed services  
36 employment and reemployment rights act.

37 (a) The member qualifies for service credit under this subsection  
38 if:



1 (i) Within ninety days of the member's honorable discharge from the  
2 uniformed services of the United States ((armed forces)), the member  
3 applies for reemployment with the employer who employed the member  
4 immediately prior to the member entering the ((United States armed  
5 forces)) uniformed services; and

6 (ii) The member makes the employee contributions required under RCW  
7 41.37.220 within five years of resumption of service or prior to  
8 retirement, whichever comes sooner; or

9 (iii) Prior to retirement and not within ninety days of the  
10 member's honorable discharge or five years of resumption of service the  
11 member pays the amount required under RCW 41.50.165(2).

12 (b) Upon receipt of member contributions under (a)(ii), (d)(iii),  
13 or (e)(iii) of this subsection, the department shall establish the  
14 member's service credit and shall bill the employer for its  
15 contribution required under RCW 41.37.220 for the period of military  
16 service, plus interest as determined by the department.

17 (c) The contributions required under (a)(ii), (d)(iii), or (e)(iii)  
18 of this subsection shall be based on the compensation the member would  
19 have earned if not on leave, or if that cannot be estimated with  
20 reasonable certainty, the compensation reported for the member in the  
21 year prior to when the member went on military leave.

22 (d) The surviving spouse or eligible child or children of a member  
23 who left the employ of an employer to enter the uniformed services of  
24 the United States and died while serving in the uniformed services may,  
25 on behalf of the deceased member, apply for retirement system service  
26 credit under this subsection up to the date of the member's death in  
27 the uniformed services. The department shall establish the deceased  
28 member's service credit if the surviving spouse or eligible child or  
29 children:

30 (i) Provides to the director proof of the member's death while  
31 serving in the uniformed services;

32 (ii) Provides to the director proof of the member's honorable  
33 service in the uniformed services prior to the date of death; and

34 (iii) Pays the employee contributions required under chapter 41.45  
35 RCW within five years of the date of death or prior to the distribution  
36 of any benefit, whichever comes first.

37 (e) A member who leaves the employ of an employer to enter the  
38 uniformed services of the United States and becomes totally

1 incapacitated for continued employment by an employer while serving in  
2 the uniformed services is entitled to retirement system service credit  
3 under this subsection up to the date of discharge from the uniformed  
4 services if:

5 (i) The member obtains a determination from the director that he or  
6 she is totally incapacitated for continued employment due to conditions  
7 or events that occurred while serving in the uniformed services;

8 (ii) The member provides to the director proof of honorable  
9 discharge from the uniformed services; and

10 (iii) The member pays the employee contributions required under  
11 chapter 41.45 RCW within five years of the director's determination of  
12 total disability or prior to the distribution of any benefit, whichever  
13 comes first.

14 NEW SECTION. Sec. 12. Section 11 of this act takes effect July 1,  
15 2006.

--- END ---

# DRAFT FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/16/04	Z-0177.1/Z-0227.1

## SUMMARY OF BILL:

This bill impacts the Public Employees' Retirement System, the School Employees' Retirement System, the Teachers' Retirement System, the Law Enforcement Officers' and Firefighters' Retirement System Plan 2, the Washington State Patrol Retirement System, and the Public Safety Employees' Retirement System by authorizing interruptive military service credit for employees who cannot return to public employment due to death or total disability while serving in the uniformed services. Service credit could be purchased by a disabled member or survivor(s) of a deceased member for interruptive military service credit up to the date of death or disability.

Effective Date: 90 days after session.

## CURRENT SITUATION:

Interruptive military service is governed by the Uniformed Services Employment and Re-employment Rights Act (USERRA). At a minimum, public employers must provide the protections specified in the act. State law can provide for benefits that are more generous than those under USERRA, as long as the minimum requirements of the federal law are fully satisfied.

USERRA provides for the re-employment of individuals who leave employment to serve in the uniformed services of the United States. Included in USERRA's re-employment rights is the right to restoration of retirement plan benefits, and to that end, USERRA provides for reinstatement of retirement service credit after re-employment. USERRA does not, however, address the retirement benefits that would have accrued to members who are never re-employed because they died while in active service or became totally incapacitated for continued service with their employer.

## MEMBERS IMPACTED:

We estimate that each year, 0 to 6 members out of the total members of all the systems would be affected by this bill.

We estimate that for a typical member impacted by this bill, the increase in benefits would be in the \$40 to \$50 per month range.

## FISCAL IMPACT:

The cost of this bill is insufficient to increase contribution rates in any of the affected systems.

# Select Committee on Pension Policy

## Deferred Rate Increases

(December 1, 2004)

---

### Issue

The Pension Funding Council (PFC) subgroup of the SPP proposed a 6-year phase-in of projected employer and plan 2 member contribution rates. Additionally, a permanent contribution rate floor would be established at the completion of the 6-year phase-in period.

### Staff

Matt Smith, State Actuary  
360-753-9144

### Members Impacted

All employers and plan 2 members of the Public Employees Retirement System (PERS), Teachers Retirement System (TRS) and the School Employees' Retirement System (SERS) would be impacted. As of September 30, 2003, there were 146,403 plan 2 members in PERS, TRS and SERS. Of this combined total, 117,262 are PERS Plan 2 members.

### Current Situation

Provisions governing the current contribution rate setting process are codified under the Actuarial Funding Chapter - Chapter 41.45 RCW. In summary, these provisions provide for the systematic actuarial funding of the state retirement systems. Biennial actuarial valuations performed on odd-year valuation dates are the basis for contribution rate recommendations to the Pension Funding Council (PFC). Contribution rates adopted by the PFC in September of even-numbered years, referred to as "basic rates," are effective during

the ensuing biennium subject to revision by the Legislature. Temporary and “supplemental rates” are charged in addition to the basic rates to fund the cost of benefit enhancements that are granted by the Legislature in between the 2-year basic rate cycles.

## History

The Pension Funding Reform Act, Chapter 273, Laws of 1989, established a systematic actuarial funding process for the state retirement systems. Contribution rates under the initial Funding Reform Act were scheduled to remain in place for a 6-year period. Additionally, the current funding policy was established including the goal to fully amortize the plan 1 unfunded liability by June 30, 2024. Prior to the Funding Reform Act, pension contributions were subject to a discretionary appropriation by the Legislature.

## Projected Contribution Rates

### ***Projected Employer Contribution Rates\****

<b>System</b>	<b>Current</b>	<b>2005-07</b>	<b>2007-09</b>	<b>2009-11</b>
PERS	1.18%	5.73%	7.28%	8.44%
TRS	1.17%	6.74%	10.15%	12.73%
SERS	0.85%	7.56%	9.45%	10.69%

*\* Includes the cost of prefunding the liability for existing gain-sharing benefit provisions.*

### ***Projected Plan 2 Member Contribution Rates\****

<b>System</b>	<b>Current</b>	<b>2005-07</b>	<b>2007-09</b>	<b>2009-11</b>
PERS	1.18%	3.38%	4.27%	4.89%
TRS	0.87%	2.48%	4.01%	5.01%
SERS	0.85%	3.51%	4.68%	5.39%

*\* The member contribution rate in PERS and TRS Plan 1 is fixed at 6%. Plan 3 members do not contribute to the defined benefit portion of their plan.*

## **PFC Subgroup Proposal**

The PFC subgroup of the SCPP proposed a 6-year phase-in of projected employer and plan 2 member contribution rates. Additionally, a permanent contribution rate floor would be established at the completion of the 6-year phase-in period.

### **Proposed Employer Rates Under 6-Year Phase-In**

#### ***Employer Rates With Phase-In***

<b>Period</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>
2005-06	4.25%	5.00%	6.00%
2006-07	5.25%	6.75%	7.00%
2007-08	6.25%	8.75%	8.50%
2008-09	7.25%	10.75%	10.00%
2009-11	8.44%	12.73%	10.69%
Ultimate Rate*	9.47%	14.59%	11.71%

*\* The ultimate rate is the maximum projected employer contribution rate for the 25-year period.*

#### ***Employer Rates Without Phase-In***

<b>Period</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>
2005-06	5.73%	6.74%	7.56%
2006-07	5.73%	6.74%	7.56%
2007-08	7.28%	10.15%	9.45%
2008-09	7.28%	10.15%	9.45%
2009-11	8.44%	12.73%	10.69%
Ultimate Rate*	9.11%	14.28%	11.37%

*\* The ultimate rate is the maximum projected employer contribution rate for the 25-year period.*

**Proposed Plan 2 Member Rates Under 6-Year Phase-In*****Plan 2 Member Rates With Phase-In***

<b>Period</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>
2005-06	2.75%	2.00%	2.75%
2006-07	3.25%	2.75%	3.25%
2007-08	3.75%	3.50%	4.25%
2008-09	4.25%	4.25%	5.25%
2009-11	4.89%	5.01%	5.39%
Ultimate Rate*	5.35%	5.61%	5.83%

*\* The ultimate rate is the maximum projected member contribution rate for the 25-year period.*

***Plan 2 Member Rates Without Phase-In***

<b>Period</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>
2005-06	3.38%	2.48%	3.51%
2006-07	3.38%	2.48%	3.51%
2007-08	4.27%	4.01%	4.68%
2008-09	4.27%	4.01%	4.68%
2009-11	4.89%	5.01%	5.39%
Ultimate Rate*	5.18%	5.53%	5.68%

*\* The ultimate rate is the maximum projected member contribution rate for the 25-year period.*

**Policy Analysis**

The proposed phase-in of projected contribution rate increases would represent a temporary departure from existing funding policy and would require a statutory change to the existing funding policy defined under Chapter 41.45 RCW - Actuarial Funding of State Retirement Systems. Employer and plan 2 member contribution rates would drop below the amounts necessary to fully fund the plans 2/3 under the aggregate funding method during the phase-in period and then increase thereafter. Contributions to amortize the unfunded prior service costs in PERS 1 and TRS 1 during the phase-in period would also drop below the amounts that would otherwise be required and increase thereafter. The amortization date for the Plans 1, however, would remain unchanged.

This proposal is consistent with the existing policy that states that employer contribution rates should be predictable and remain a relatively constant proportion of future state budgets. This proposal would establish a fixed schedule of increasing contribution rates for a 6-year period, thereby increasing predictability, and would smooth out the impact of projected rate increases on future state and local government budgets. The addition of a permanent contribution rate floor at the completion of the phase-in period is also consistent with this policy – increasing the stability and predictability of future contribution rates.

This proposal is inconsistent with the existing policy to fund all Plan 2/3 benefits over the working lives of those members so that the cost of those benefits are paid by the taxpayers who receive the benefit of those members' service, and would be a first-time departure from this policy. The proposal would effectively borrow plan assets in the short-term as a means of financing a schedule of deferred rate increases during the phase-in period - without permanently modifying existing funding policy. This would result in short-term savings, followed by a long-term cost.

### **Estimated Fiscal Impact**

#### ***Increase in Projected Funding Expenditures***

<i>(\$ in millions)</i>	<b>GF-S</b>	<b>Non GF-S (State)</b>	<b>Local Government</b>	<b>Total Employer</b>
<b>2005-07</b>				
PERS	\$ (35.8)	\$ (59.0)	\$ (84.0)	\$ (178.8)
TRS	(66.4)	0.0	(13.6)	(80.0)
SERS	(18.4)	0.0	(16.3)	(34.7)
<b>Total Employer</b>	<b>\$ (120.6)</b>	<b>\$ (59.0)</b>	<b>\$ (113.9)</b>	<b>\$ (293.5)</b>
<b>2007-09</b>				
PERS	\$ (19.6)	\$ (32.4)	\$ (46.1)	\$ (98.1)
TRS	(36.5)	0.0	(7.5)	(44.0)
SERS	(3.2)	0.0	(2.9)	(6.1)
<b>Total Employer</b>	<b>\$ (59.3)</b>	<b>\$ (32.4)</b>	<b>\$ (56.5)</b>	<b>\$ (148.2)</b>



(\$ in millions)	GF-S	Non GF-S (State)	Local Government	Total Employer
<b>2009-11*</b>				
PERS	\$ 0.0	\$ 0.0	\$ 0.0	\$ 0.0
TRS	(4.0)	0.0	(0.8)	(4.8)
SERS	(0.5)	0.0	(0.4)	(0.9)
<b>Total Employer</b>	<b>\$ (4.5)</b>	<b>\$ 0.0</b>	<b>\$ (1.2)</b>	<b>\$ (5.7)</b>
<b>25 Year</b>				
PERS	\$ 73.1	\$ 120.7	\$ 171.9	\$ 365.7
TRS	143.0	0.0	29.3	172.3
SERS	35.2	0.0	31.2	66.4
<b>Total Employer</b>	<b>\$ 251.3</b>	<b>\$ 120.7</b>	<b>\$ 232.4</b>	<b>\$ 604.3</b>

\*2007-09 rate increases for TRS and SERS are effective 9/1/2007 through 8/31/2009.

***The proposed schedule of future rate increases should be adjusted for any significant divergence between actual and assumed experience - including the cost of any future benefit enhancements.***

The estimated fiscal impact is based on the proposed schedule of rate increases presented in this paper. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2002 actuarial valuation report and using preliminary contribution rates from the 2003 actuarial valuation. The cost of adding a permanent contribution rate floor is not reflected.

The proposed schedule of future rate increases was developed under an actuarial projection of assets and liabilities. The emerging costs of the affected systems will vary from what is displayed in this paper to the extent that actual experience differs from that projected under the current actuarial assumptions.

This proposal assumes a fixed schedule of increasing contribution rates and a permanent contribution rate floor at the completion of the phase-in period. However a current Legislature cannot obligate a future Legislature for contribution rate increases that would impact a future biennial budget. The proposed schedule of future contribution rate increases, if approved by the 2005 Legislature, could be amended by a future Legislature. If the minimum funding requirements set forth in the schedule were not honored by future Legislatures, the costs in the tables above could be understated.

### **Revised Proposal (Amended)**

The PFC subgroup directed the State Actuary to revise the original proposal to address the following concerns:

- the increases in the ultimate employer and member contribution rates caused by deferring contribution rate increases beyond the phase-in period; and
- the insufficient deferral of rate increases during the first year of the schedule for local government employers under PERS.

The revised proposal eliminates the increases in the ultimate employer and member rates by not deferring rate increases beyond the 4-year phase-in period. In other words, on a present value basis, the deferral of rate increases during the first biennium is offset by rate increases during the second biennium (for both employers and plan 2 members).

Additionally, the revised proposal provides a significant deferral of contribution rate increases for PERS employers and Plan 2 members during the first year of the proposed schedule. However, this significant deferral in year one is followed by significant increases during the third and fourth year of the schedule.

The revised proposal was amended for a .01% correction to the SERS employer contribution rate for 2008-09 and the plan 2 member rates for 2008-09 were adjusted to ensure that the present value of member contributions is equal under the “with” and “without” phase-in schedules.

### **Proposed Employer Rates Under 4-Year Phase-In**

#### ***Employer Rates With Phase-In (amendment in bold)***

<b>Period</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>
2005-06	2.50%	5.46%	4.70%
2006-07	5.50%	7.21%	7.45%
2007-08	8.25%	9.57%	10.01%
2008-09	9.96%	11.62%	<b>12.04%</b>
2009-11	8.44%	12.73%	10.69%
Ultimate Rate*	9.11%	14.28%	11.37%

\* The ultimate rate is the maximum projected employer contribution rate for the 25-year period.

**Employer Rates Without Phase-In**

<b>Period</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>
2005-06	5.73%	6.74%	7.56%
2006-07	5.73%	6.74%	7.56%
2007-08	7.28%	10.15%	9.45%
2008-09	7.28%	10.15%	9.45%
2009-11	8.44%	12.73%	10.69%
Ultimate Rate*	9.11%	14.28%	11.37%

\* The ultimate rate is the maximum projected employer contribution rate for the 25-year period.

**Proposed Plan 2 Member Rates Under 4-Year Phase-In**

**Plan 2 Member Rates With Phase-In (amendments in bold)**

<b>Period</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>
2005-06	1.75%	1.75%	2.25%
2006-07	3.25%	2.75%	3.50%
2007-08	4.75%	3.75%	4.75%
2008-09	<b>5.80%</b>	<b>4.91%</b>	<b>6.34%</b>
2009-11	4.89%	5.01%	5.38%
Ultimate Rate*	5.18%	5.53%	5.68%

\* The ultimate rate is the maximum projected member contribution rate for the 25-year period.

**Plan 2 Member Rates Without Phase-In**

<b>Period</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>
2005-06	3.38%	2.48%	3.51%
2006-07	3.38%	2.48%	3.51%
2007-08	4.27%	4.01%	4.68%
2008-09	4.27%	4.01%	4.68%
2009-11	4.89%	5.01%	5.38%
Ultimate Rate*	5.18%	5.53%	5.68%

\* The ultimate rate is the maximum projected member contribution rate for the 25-year period.

**Estimated Fiscal Impact - Revised Proposal*****Increase in Projected Funding Expenditures***

<i>(\$ in millions)</i>	<b>GF-S</b>	<b>Non GF-S (State)</b>	<b>Local Government</b>	<b>Total Employer</b>
<b>2005-07</b>				
PERS	\$ (55.9)	\$ (92.3)	\$ (131.5)	\$ (279.7)
TRS	(29.4)	0.0	(6.0)	(35.4)
SERS	(23.5)	0.0	(20.8)	(44.3)
<b>Total Employer</b>	<b>\$ (108.8)</b>	<b>\$ (92.3)</b>	<b>\$ (158.3)</b>	<b>\$ (359.4)</b>
<b>2007-09</b>				
PERS	\$ 68.6	\$ 113.2	\$ 161.3	\$ 343.1
TRS	27.6	0.0	5.7	33.3
SERS	24.3	0.0	21.5	45.8
<b>Total Employer</b>	<b>\$ 120.5</b>	<b>\$ 113.2</b>	<b>\$ 188.5</b>	<b>\$ 422.2</b>
<b>2009-11*</b>				
PERS	\$ 0.0	\$ 0.0	\$ 0.0	\$ 0.0
TRS	11.5	0.0	2.3	13.8
SERS	4.9	0.0	4.3	9.2
<b>Total Employer</b>	<b>\$ 16.4</b>	<b>\$ 0.0</b>	<b>\$ 6.6</b>	<b>\$ 23.0</b>
<b>25 Year</b>				
PERS	\$ 12.7	\$ 20.9	\$ 29.8	\$ 63.4
TRS	9.8	0.0	2.0	11.8
SERS	5.6	0.0	5.0	10.6
<b>Total Employer</b>	<b>\$ 28.1</b>	<b>\$ 20.9</b>	<b>\$ 36.8</b>	<b>\$ 85.8</b>

\*2007-09 rate increases for TRS and SERS are effective 9/1/2007 through 8/31/2009.

### **Contribution Rate Floor**

The PFC subgroup recommended the adoption of a permanent contribution rate floor at the completion of any phase-in period. The following proposed contribution rate floor is consistent with, and could serve as an alternative to, the recommendation provided under the previous committee issue paper "Contribution Rate Setting - July 2, 2004." The minimum Plan 2/3 normal cost rate would apply equally to both employers and Plan 2 employees, and once the Plan 1 UAAL is completely amortized, the Plan 2/3 normal cost would become the minimum contribution rate for employers as well.

#### ***Minimum Contribution Rates after June 30, 2009***

<b>System</b>	<b>Plan 2/3 Normal Cost</b>	<b>Plan 1 UAAL</b>	<b>Total Employer</b>
PERS	4.00%	2.75%	6.75%
TRS	5.00%	5.75%	10.75%
SERS	4.25%	2.75%*	7.00%

\* Contribution to the PERS 1 unfunded liability.

### **Executive Committee Recommendation**

Staff was directed to prepare bill language for the November Executive Committee meeting and to prepare additional fiscal analysis for the December meeting.

### **Coordination with Other SCPP Proposals**

This proposal was developed independent of the gain-sharing trade-off proposals from the Purchasing Power/Gain-Sharing subgroup. The deferred rate increases under the proposed schedule include gain-sharing costs for the employer. This schedule, and estimated fiscal impact, would require an amendment to exclude employer rate increases due to gain-sharing should another piece of legislation repeal or reduce future gain-sharing benefits.

## **Bill (Draft) - Amended**

Attached. The revised proposal was amended for a .01% correction to the SERS employer contribution rate for 2008-09 and the plan 2 member rates for 2008-09 were adjusted to ensure that the present value of member contributions is equal under the “with” and “without” phase-in schedules.

## **Additional Fiscal Analysis**

The proposed contribution rate schedule departs from the normal biennial rate-setting process by requiring four annual increases in rates. The rates are lower in the first two years than required by the 2003 actuarial valuation and higher in the second two years than required by the projected 2005 actuarial valuation. In other words, the proposal would effectively “borrow” plan assets in the 2005-07 biennium and repay the “borrowed” assets with 8% annual interest during the 2007-09 biennium.

This proposal can be thought of as generating a “short-term debt” to the pension system that would be repaid over the following biennium. The original proposal with a 6-year phase-in would not completely repay the debt over the phase-in period and, as a result, would create a “long-term debt” to the pension system. The payment of the long-term debt is reflected in the increase in the ultimate contribution rates for the affected systems.

Both schedules, whether they generate a short- or long-term debt, will be sensitive to experience that deviates from what is assumed over the phase-in period. Most significant will be the plan’s investment performance relative to the 8% assumption. We reviewed this sensitivity and determined it was minor. This is due in large part to the 13.73% preliminary investment rate of return for the plan year ending 9/30/2004 (source: WSIB) and the current asset smoothing method. The preliminary investment gain for the plan year ending 9/30/2004 is not reflected in the proposed schedule and, therefore, will be available to offset a significant portion of any investment loss that may occur during the plan year ending 9/30/2005. Furthermore, the current asset smoothing method dampens the short-term volatility of contribution rates. The results of the 9/30/2005 actuarial valuation will be the basis for the 2007-09 contribution rate recommendations and the basis for any adjustment to the rates in this proposed schedule if necessary.

It should also be noted that the proposed schedule of rate increases during the 2007-09 biennium, if approved by the 2005 Legislature, could be amended by a future Legislature. If the minimum funding requirements set forth in the schedule were not honored by future legislatures, the costs represented in this paper could be understated. For example, if the contribution savings during the 2005-07 biennium were not completely recouped with interest during the following biennium, and if they resulted in a permanent reduction of 2005-07 contributions, the short-term debt would effectively be restructured into a long-term debt that would increase the overall costs to the retirement system.

**Fiscal Note (Draft)**

A fiscal note on the revised proposal (amended) is attached.

1 AN ACT Relating to contribution rates for the public employees'  
2 retirement system, the teachers' retirement system, the school  
3 employees' retirement system, and the public safety employees'  
4 retirement system; adding new sections to chapter 41.45 RCW;  
5 decodifying RCW 41.45.054; providing effective dates; and declaring an  
6 emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. Sec. 1. A new section is added to chapter 41.45 RCW  
9 to read as follows:

10 The basic employer and state contribution rates and required plan  
11 member contribution rates are changed to reflect the 2003 actuarial  
12 valuation and actuarial projections of the 2005 actuarial valuation,  
13 both of which incorporate the 2002 actuarial experience study conducted  
14 by the office of the state actuary for 1995-2000. This contribution  
15 rate schedule departs from the normal biennial process for setting  
16 contribution rates by requiring four annual increases in rates. The  
17 rates are lower in the first two years than required by the 2003  
18 actuarial valuation and higher in the second two years than required by  
19 the projected 2005 actuarial valuation. Upon completion of the 2005



1 actuarial valuation, the pension funding council and the state actuary  
2 shall review the appropriateness of the contribution rates for 2007-  
3 2008 and 2008-2009 and by September 30, 2006, the pension funding  
4 council shall recommend to the legislature any adjustments as may be  
5 needed due to material changes in benefits or actuarial assumptions,  
6 methods, or experience. This contribution rate schedule also requires  
7 a departure from the allocation formula for contributions in RCW  
8 41.45.050.

9 (1) Beginning July 1, 2005, the following employer contribution  
10 rate shall be charged: 2.50 percent for the public employees'  
11 retirement system, of which .50 percent shall be allocated to the  
12 unfunded actuarial accrued liability for the public employees'  
13 retirement system plan 1.

14 (2) Beginning September 1, 2005, the following employer  
15 contribution rates shall be charged:

16 (a) 4.70 percent for the school employees' retirement system, of  
17 which .50 percent shall be allocated to the unfunded actuarial accrued  
18 liability for the public employees' retirement system plan 1; and

19 (b) 5.46 percent for the teachers' retirement system, of which 2.25  
20 percent shall be allocated to the unfunded actuarial accrued liability  
21 for the teachers' retirement system plan 1.

22 (3) Beginning July 1, 2005, the following member contribution rate  
23 shall be charged: 1.75 percent for the public employees' retirement  
24 system plan 2.

25 (4) Beginning September 1, 2005, the following member contribution  
26 rates shall be charged:

27 (a) 2.25 percent for the school employees' retirement system plan  
28 2; and

29 (b) 1.75 percent for the teachers' retirement system plan 2.

30 (5) The contribution rates in subsections (1) through (4) of this  
31 section shall be collected through June 30, 2006, for the public  
32 employees' retirement system, and August 31, 2006, for the school  
33 employees' retirement system and the teachers' retirement system.

34 (6) Beginning July 1, 2006, the following employer contribution  
35 rate shall be charged: 5.50 percent for the public employees'  
36 retirement system, of which 2.00 percent shall be allocated to the  
37 unfunded actuarial accrued liability for the public employees'  
38 retirement system plan 1.

(7) Beginning September 1, 2006, the following employer contribution rates shall be charged:

(a) 7.45 percent for the school employees' retirement system, of which 2.00 percent shall be allocated to the unfunded actuarial accrued liability for the public employees' retirement system plan 1; and

(b) 7.21 percent for the teachers' retirement system, of which 3.00 percent shall be allocated to the unfunded actuarial accrued liability for the teachers' retirement system plan 1.

(8) Beginning July 1, 2006, the following member contribution rate shall be charged: 3.25 percent for the public employees' retirement system plan 2.

(9) Beginning September 1, 2006, the following member contribution rates shall be charged:

(a) 3.50 percent for the school employees' retirement system plan 2; and

(b) 2.75 percent for the teachers' retirement system plan 2.

(10) The contribution rates in subsections (6) through (9) of this section shall be collected through June 30, 2007, for the public employees' retirement system, and August 31, 2007, for the school employees' retirement system and the teachers' retirement system.

(11) Beginning July 1, 2007, the following employer contribution rate shall be charged: 8.25 percent for the public employees' retirement system, of which 3.25 percent shall be allocated to the unfunded actuarial accrued liability of the public employees' retirement system plan 1.

(12) Beginning September 1, 2007, the following employer contribution rates shall be charged:

(a) 10.01 percent for the school employees' retirement system, of which 3.25 percent shall be allocated to the unfunded actuarial accrued liability of the public employees' retirement system plan 1; and

(b) 9.57 percent for the teachers' retirement system, of which 4.45 percent shall be allocated to the unfunded actuarial accrued liability of the teachers' retirement system plan 1.

(13) Beginning July 1, 2007, the following member contribution rate shall be charged: 4.75 percent for the public employees' retirement system plan 2.

(14) Beginning September 1, 2007, the following member contribution rates shall be charged:

(a) 4.75 percent for the school employees' retirement system plan 2; and

(b) 3.75 percent for the teachers' retirement system plan 2.

(15) The contribution rates in subsections (11) through (14) of this section shall be collected through June 30, 2008, for the public employees' retirement system, and August 31, 2008, for the school employees' retirement system and the teachers' retirement system.

(16) Beginning July 1, 2008, the following employer contribution rate shall be charged: 9.96 percent for the public employees' retirement system, of which 4.07 percent shall be allocated to the unfunded actuarial accrued liability of the public employees' retirement system plan 1.

(17) Beginning September 1, 2008, the following employer contribution rates shall be charged:

(a) 12.04 percent for the school employees' retirement system, of which 4.07 percent shall be allocated to the unfunded actuarial accrued liability of the public employees' retirement system plan 1; and

(b) 11.62 percent for the teachers' retirement system, of which 5.48 percent shall be allocated to the unfunded actuarial accrued liability of the teachers' retirement system plan 1.

(18) Beginning July 1, 2008, the following member contribution rate shall be charged: 5.80 percent for the public employees' retirement system plan 2.

(19) Beginning September 1, 2008, the following member contribution rates shall be charged:

(a) 6.34 percent for the school employees' retirement system plan 2; and

(b) 4.91 percent for the teachers' retirement system plan 2.

(20) The contribution rates in subsections (16) through (19) of this section shall be collected through June 30, 2009, for the public employees' retirement system, and August 31, 2009, for the school employees' retirement system and the teachers' retirement system.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.45 RCW to read as follows:

Beginning July 1, 2009, for the public employees' retirement system and the public safety employees' retirement system, and September 1, 2009, for the school employees' retirement system and the teachers'

1 retirement system, minimum basic employer and state contribution rates  
2 and minimum required plan 2 member contribution rates are established.  
3 In establishing these minimum rates, it is the intent of the  
4 legislature to promote contribution rate stability over time. The  
5 basic employer and state contribution rates and required plan 2 member  
6 contribution rates as recommended by the pension funding council and  
7 adopted by the legislature may exceed, but shall not drop below, these  
8 minimum rates. Upon completion of each biennial actuarial valuation,  
9 the pension funding council and the state actuary shall review the  
10 appropriateness of the minimum contribution rates and the pension  
11 funding council shall recommend to the legislature any adjustments as  
12 may be needed due to material changes in benefits or actuarial  
13 assumptions, methods, or experience.

14 (1) Beginning July 1, 2009, the following minimum employer  
15 contribution rate shall be charged: 4.00 percent for the public  
16 employees' retirement system.

17 (2) Beginning September 1, 2009, the following minimum employer  
18 contribution rates shall be charged:

19 (a) 4.25 percent for the school employees' retirement system; and

20 (b) 5.00 percent for the teachers' retirement system.

21 (3) Beginning July 1, 2009, the following minimum member  
22 contribution rate shall be charged: 4.00 percent for the public  
23 employees' retirement system plan 2.

24 (4) Beginning September 1, 2009, the following minimum member  
25 contribution rates shall be charged:

26 (a) 4.25 percent for the school employees' retirement system plan  
27 2; and

28 (b) 5.00 percent for the teachers' retirement system plan 2.

29 (5) Beginning July 1, 2009, an additional minimum 2.75 percent is  
30 added to the minimum employer contribution rate of 4.00 percent for the  
31 public employees' retirement system until the actuarial value of assets  
32 equals one hundred twenty-five percent of the actuarial accrued  
33 liability for the public employees' retirement system plan 1 or June  
34 30, 2024, whichever comes first.

35 (6) Beginning July 1, 2009, an additional minimum 2.75 percent is  
36 added to the basic employer contribution rate for the public safety  
37 employees' retirement system until the actuarial value of public  
38 employees' retirement system plan 1 assets equals one hundred

1 twenty-five percent of the actuarial accrued liability for the public  
2 employees' retirement system plan 1 or June 30, 2024, whichever comes  
3 first.

4 (7) Beginning September 1, 2009, an additional minimum 2.75 percent  
5 is added to the minimum employer contribution rate of 4.25 percent for  
6 the school employees' retirement system until the actuarial value of  
7 public employees' retirement system plan 1 assets equals one hundred  
8 twenty-five percent of the actuarial accrued liability for the public  
9 employees' retirement system plan 1 or June 30, 2024, whichever comes  
10 first.

11 (8) Beginning September 1, 2009, an additional 5.75 percent is  
12 added to the minimum employer contribution rate of 5.00 percent for the  
13 teachers' retirement system until the actuarial value of assets equals  
14 one hundred twenty-five percent of the actuarial accrued liability for  
15 the teachers' retirement system plan 1 or June 30, 2024, whichever  
16 comes first.

17 NEW SECTION. Sec. 3. RCW 41.45.054 is decodified, effective  
18 September 1, 2005.

19 NEW SECTION. Sec. 4. Section 1 of this act is necessary for the  
20 immediate preservation of the public peace, health, or safety, or  
21 support of the state government and its existing public institutions,  
22 and takes effect July 1, 2005.

23 NEW SECTION. Sec. 5. Section 2 of this act takes effect July 1,  
24 2009.

--- END ---

# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/24/2004	Z-0208.2/ Z-0209.2

## SUMMARY OF BILL:

This bill impacts the Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), School Employees' Retirement System (SERS), and Public Safety Employees' Retirement System (PSERS) by establishing required basic employer and state contribution rates and required Plan 2 member contribution rates. Section 1 of the bill establishes a four-year schedule for contribution rates that departs from the normal biennial process for setting rates. The schedule requires four **annual** increases in rates, and departs from the usual formula for allocating contributions among the plans. For PERS and SERS, the rates are lower in the first two years than required by the 2003 actuarial valuation and are higher in the second two years than required by the projected 2005 actuarial valuation. For TRS, the rates are lower in the first year of each biennium and higher in the second year. The schedule thus allows for a gradual phase-in of required increases in contribution rates.

Section 2 of the bill establishes **minimum** basic employer and state contribution rates and required Plan 2 member contribution rates to promote rate stability over time. These minimum rates function as a "floor" beneath which contribution rates are not intended to drop.

The pension funding council is required to review the appropriateness of these rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods or experience.

Effective Date: Section 1 of the bill is effective July 1, 2005. Section 2 of the bill is effective July 1, 2009.

## CURRENT SITUATION:

The required employer contribution rates without the four-year phase-in are:

Period	PERS	TRS	SERS
2005-06	5.73%	6.74%	7.56%
2006-07	5.73%	6.74%	7.56%
2007-08	7.28%	10.15%	9.45%
2008-09	7.28%	10.15%	9.45%

*Includes the cost of future gain-sharing benefits*

The required Plan 2 member contribution rates without the four-year phase-in are:

Period	PERS	TRS	SERS
2005-06	3.38%	2.48%	3.51%
2006-07	3.38%	2.48%	3.51%
2007-08	4.27%	4.01%	4.68%
2008-09	4.27%	4.01%	4.68%

There is currently no contribution rate floor in effect for PERS, TRS, SERS or PSERS.

On September 24, 2004, the Pension Funding Council adopted the "without phase-in" contribution rates for 2005-07 effective July 1, 2005 only if affirmatively approved in advance by the Legislature.

#### **MEMBERS IMPACTED:**

We estimate that all active Plan 2 members of PERS, TRS, and SERS would be affected by this bill. This includes 117,262 out of 154,550 active members for PERS, 7,637 out of 66,075 for TRS, and 27,710 out of 49,214 for SERS.

We estimate that for a typical member impacted by this bill, there would be no increase in benefits, but there would be a deferral of contributions. The member contributions would be significantly lower in the first year and significantly higher in the fourth year. The member contributions in the first year would be lower by 0.73% to 1.63% of pay. The member contributions in years two and three would range from being lower by 0.26% of pay to being higher by 0.48% of pay. The member contributions in the fourth year would be higher by 0.90% to 1.66% of pay.

#### **ASSUMPTIONS:**

The actuarial present value of future contributions under the proposed schedule is equal to the present value of future contributions under the "without phase-in" schedule. This equivalency is based on an 8% assumed rate of return and the economic and demographic assumptions disclosed in the 2002 Actuarial Valuation Report.

#### **FISCAL IMPACT:**

##### **Description:**

While the actuarial present value of the change in rates is zero, there is a future value cost on a cash flow basis. The cost shown is the interest on the deferred contributions at the assumed rate of return of 8%.

The estimated fiscal impact does not include cost associated with the contribution rate floor established at July 1, 2009 since the floor rates would not impact contribution rates in the long run. The short-term increase in rates during years in which the floor applies would be offset by lower rates in subsequent

years. The contribution rate floor could result in long-term savings to the extent that investment earnings from the "extra" contributions due to the floor are used to reduce future contribution requirements. There would be a cost to establishing a floor if the extra contributions are used to fund future benefit improvements in lieu of reducing future contribution requirements.

We considered but did not include any cost impact associated with the timing of extra contributions due to the floor or when the extra contributions would be invested relative to investment market cycles.

#### **Actuarial Determinations:**

The bill would not change the present value of benefits payable under the Systems. The bill will impact the contribution rates effective for the four years beginning on July 1, 2005 for PERS and the four years beginning on September 1, 2005 for TRS and SERS as shown below:

	<b>System:</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>
<b>Increase (Decrease) in Contribution Rates:</b>				
2005 - 2006 Employee		(1.63%)	(0.73%)	(1.26%)
2005 - 2006 Employer State		(3.23%)	(1.28%)	(2.86%)
2006 - 2007 Employee		(0.13%)	0.27%	(0.01%)
2006 - 2007 Employer State		(0.23%)	0.47%	(0.11%)
2007 - 2008 Employee		0.48%	(0.26%)	0.07%
2007 - 2008 Employer State		0.97%	(0.58%)	0.56%
2008 - 2009 Employee		1.53%	0.90%	1.66%
2008 - 2009 Employer State		2.68%	1.47%	2.59%



## Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase (decrease) in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>	<b>Total</b>
<b>2005-2007</b>				
<b>State:</b>				
General Fund	(\$54.3)	(\$30.0)	(\$23.6)	(\$107.9)
Non-General Fund	<u>(\$89.6)</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>(\$89.6)</u>
<b>Total State</b>	<b>(\$143.9)</b>	<b>(\$30.0)</b>	<b>(\$23.6)</b>	<b>(\$197.5)</b>
Local Government	(\$127.7)	(\$6.1)	(\$20.9)	(\$154.7)
Total Employer	(\$271.6)	(\$36.1)	(\$44.5)	(\$352.2)
 Total Employee	 (\$95.3)	 (\$2.2)	 (\$5.8)	 (\$103.3)
<b>2007-2009</b>				
<b>State:</b>				
General Fund	\$66.6	\$28.2	\$24.4	\$119.2
Non-General Fund	<u>\$110.0</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$110.0</u>
<b>Total State</b>	<b>\$176.6</b>	<b>\$28.2</b>	<b>\$24.4</b>	<b>\$229.2</b>
Local Government	\$156.6	\$5.8	\$21.6	\$184.0
Total Employer	\$333.2	\$34.0	\$46.0	\$413.2
 Total Employee	 \$117.2	 \$2.2	 \$5.9	 \$125.3
<b>2005-2030</b>				
<b>State:</b>				
General Fund	\$12.3	\$10.0	\$5.7	\$28.0
Non-General Fund	<u>\$20.3</u>	<u>\$0.0</u>	<u>\$0.0</u>	<u>\$20.3</u>
<b>Total State</b>	<b>\$32.6</b>	<b>\$10.0</b>	<b>\$5.7</b>	<b>\$48.3</b>
Local Government	\$28.9	\$2.0	\$5.0	\$35.9
Total Employer	\$61.5	\$12.0	\$10.7	\$84.2
 Total Employee	 \$21.8	 \$0.7	 \$1.5	 \$24.0

## State Actuary's Comments:

The proposed schedule of deferred rate increases includes the cost of future gain-sharing benefits for the employer. This schedule and fiscal note would require amendment to exclude employer rate increases due to gain-sharing should another piece of Legislation repeal or reduce future gain-sharing benefits.

## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Public Employee's Retirement System, Teachers Retirement System and School Employee's Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

## GLOSSARY OF ACTUARIAL TERMS:

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Projected Benefits:** Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Actuarial accrued liability:** Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

**Unfunded Actuarial Accrued Liability (UAAL):** The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

# Select Committee on Pension Policy

## Rule of 90 Proposal

(November 29, 2004)

---

### **Issue**

The issue before the full SCPP is whether to propose legislation to provide unreduced retirement to vested members of the TRS, SERS and PERS Plans 2/3 for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more.

### **Staff**

Laura Harper, Senior Research Analyst/Legal  
(360) 586-7616

### **Members Impacted**

It is estimated that the following members would be impacted by this bill: 82,259 out of 117,262 active members in PERS 2; 13,497 out of 17,548 active members in PERS 3; 5,209 out of 7,637 active members in TRS 2; 37,310 out of 47,263 active members in TRS 3; 12,455 out of 21,504 active members in SERS 2; and 16,167 out of 27,710 active members in SRS 3.

### **Current Situation**

Currently, in the PERS, TRS and SERS Plans 2/3, a vested member is eligible for either normal, early or alternate early retirement. The early retirement provisions involve reduced benefits. Normal retirement is a full, unreduced benefit. In the Plans 2 normal retirement is currently available to any member who is at least age sixty-five and who has completed five service credit years. In the Plans 3 normal retirement (for the defined benefit portion of the plan) is currently available to any member who is at least age 65 and who has completed ten service credit years, or who has completed five

service years including twelve service credit months after attaining age 54. This bill would provide an unreduced retirement benefit to any vested Plan 2/3 member who satisfies the rule of 90.

### Proposal

A "rule of 90" would allow vested members to receive an unreduced retirement benefit when they reach any combination of age and service that totals ninety. For example, an employee who became a plan member at age 20 could retire at age 55 with 35 years of service. Similarly, a plan member who began working at age 30 could retire at age 60 with a full benefit. Those who become plan members at age 40 or later would not benefit from the rule of 90, as there would be no combination of age and service that could result in a full retirement benefit earlier than age 65, the current normal retirement age for the Plans 2/3.

The following table illustrates the operation of a rule of 90 for any retirement system:

Illustration of Rule of 90			
Age of Hire	Years of Service	Retire Age	Age Plus Years of Service
20	35	55	90
22	34	56	90
24	33	57	90
26	32	58	90
28	31	59	90
30	30	60	90
32	29	61	90
24	28	62	90
36	27	63	90
38	26	64	90
40	25	65	90

Members of the TRS would benefit more from a Rule of 90 than members of PERS or SERS because they have lower entry ages and longer service years.

<b>Relative Value of Rule of 90 Among Retirement Systems</b>				
<b>System</b>	<b>Average Age</b>	<b>Average Service</b>	<b>Average Age at Hire</b>	<b>"Rule of 90" Age</b>
<b>TRS</b>	44	11	33	61.5
<b>PERS</b>	45	10	35	62.5
<b>SERS</b>	46	7	39	64.5

### **Policy Analysis**

A rule of 90 would move toward a more career-based retirement benefit for the Plans 2/3 in that younger workers would be rewarded for long-term public service by receiving an unreduced retirement benefit prior to the time at which they would normally be expected to leave the workforce. The cost of a life-time benefit for such individuals would be higher because the benefit would be paid over a longer period of time.

It should be noted that the SCPP is also considering a modified rule of 90 as part of a Plan 3 gain-sharing trade-off proposal. This modified rule of 90 would apply only to vested members who are at least age sixty. Under the modified rule, the unreduced retirement benefit would be available only for service credit earned after the effective date of the bill (July 1, 2007). The portion of the benefit attributed to service credit earned before the effective date of the bill would be subject to the usual required reductions for early retirement. The modifications to the rule of 90 found in the Plan 3 gain-sharing trade-off proposal have been included to lower the cost of the rule of 90. Also, the minimum age of 60 creates less departure from the age-based designs of the Plans 2/3.

For additional policy analysis, see the Age 65 Retirement Options report dated October 12, 2004 and the Age 65 Retirement Report dated September 1, 2004.

**Procedural Posture/Executive Committee Recommendation**

As the result of the September 7, 2004 briefing of the Select Committee on Pension Policy (SCPP) on the issue of Age 65 Retirement, an "age 65 subgroup" was formed to make specific recommendations to the SCPP. Last month the Age 65 subgroup recommended to the Executive Committee that the SCPP consider legislation to provide unreduced retirement according to a "Rule of 90" for members of the TRS, SERS and PERS Plans 2/3. On November 9, 2004, the Executive Committee directed staff to prepare a bill draft and fiscal note on the Rule of 90 proposal for the December meeting.

**Bill (Draft)**

The bill draft for this proposal is attached.

**Fiscal Note (Draft)**

The fiscal note for this proposal is attached.

1 AN ACT Relating to providing unreduced retirement benefits in plans  
2 2 and 3 of the public employees' retirement system, the teachers'  
3 retirement system, and the school employees' retirement system;  
4 amending RCW 41.40.630, 41.40.820, 41.32.765, 41.32.875, 41.35.420, and  
5 41.35.680; and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 41.40.630 and 2000 c 247 s 901 are each amended to  
8 read as follows:

9 (1) NORMAL RETIREMENT. Any member with at least five service  
10 credit years who has attained at least age sixty-five shall be eligible  
11 to retire and to receive a retirement allowance computed according to  
12 the provisions of RCW 41.40.620.

13 (2) UNREDUCED RETIREMENT. Any member who has completed at least  
14 five service credit years and for whom the sum of the number of years  
15 of the member's age and the number of years of the member's service  
16 credit equals ninety or more shall be eligible to retire and receive a  
17 retirement allowance computed according to the provisions of RCW  
18 41.40.620.



1        (3) EARLY RETIREMENT. Any member who has completed at least twenty  
2 service credit years and has attained age fifty-five shall be eligible  
3 to retire and to receive a retirement allowance computed according to  
4 the provisions of RCW 41.40.620, except that a member retiring pursuant  
5 to this subsection shall have the retirement allowance actuarially  
6 reduced to reflect the difference in the number of years between age at  
7 retirement and the attainment of age sixty-five.

8        ~~((+3+))~~ (4) ALTERNATE EARLY RETIREMENT. Any member who has  
9 completed at least thirty service credit years and has attained age  
10 fifty-five shall be eligible to retire and to receive a retirement  
11 allowance computed according to the provisions of RCW 41.40.620, except  
12 that a member retiring pursuant to this subsection shall have the  
13 retirement allowance reduced by three percent per year to reflect the  
14 difference in the number of years between age at retirement and the  
15 attainment of age sixty-five.

16        **Sec. 2.** RCW 41.40.820 and 2000 c 247 s 309 are each amended to  
17 read as follows:

18        (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
19 and who has:

20        (a) Completed ten service credit years; or

21        (b) Completed five service credit years, including twelve service  
22 credit months after attaining age fifty-four; or

23        (c) Completed five service credit years by the transfer payment  
24 date specified in RCW 41.40.795, under the public employees' retirement  
25 system plan 2 and who transferred to plan 3 under RCW 41.40.795;  
26 shall be eligible to retire and to receive a retirement allowance  
27 computed according to the provisions of RCW 41.40.790.

28        (2) UNREDUCED RETIREMENT. Any member who has completed the number  
29 of service credit years required in subsection (1) of this section and  
30 for whom the sum of the number of years of the member's age and the  
31 number of years of the member's service credit equals ninety or more  
32 shall be eligible to retire and receive a retirement allowance computed  
33 according to the provisions of RCW 41.40.790.

34        (3) EARLY RETIREMENT. Any member who has attained at least age  
35 fifty-five and has completed at least ten years of service shall be  
36 eligible to retire and to receive a retirement allowance computed  
37 according to the provisions of RCW 41.40.790, except that a member

1 retiring pursuant to this subsection shall have the retirement  
2 allowance actuarially reduced to reflect the difference in the number  
3 of years between age at retirement and the attainment of age sixty-  
4 five.

5 ((+3+)) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
6 completed at least thirty service credit years and has attained age  
7 fifty-five shall be eligible to retire and to receive a retirement  
8 allowance computed according to the provisions of RCW 41.40.790, except  
9 that a member retiring pursuant to this subsection shall have the  
10 retirement allowance reduced by three percent per year to reflect the  
11 difference in the number of years between age at retirement and the  
12 attainment of age sixty-five.

13 Sec. 3. RCW 41.32.765 and 2000 c 247 s 902 are each amended to  
14 read as follows:

15 (1) NORMAL RETIREMENT. Any member with at least five service  
16 credit years of service who has attained at least age sixty-five shall  
17 be eligible to retire and to receive a retirement allowance computed  
18 according to the provisions of RCW 41.32.760.

19 (2) UNREDUCED RETIREMENT. Any member who has completed at least  
20 five service credit years and for whom the sum of the number of years  
21 of the member's age and the number of years of the member's service  
22 credit equals ninety or more shall be eligible to retire and receive a  
23 retirement allowance computed according to the provisions of RCW  
24 41.32.760.

25 (3) EARLY RETIREMENT. Any member who has completed at least twenty  
26 service credit years of service who has attained at least age fifty-  
27 five shall be eligible to retire and to receive a retirement allowance  
28 computed according to the provisions of RCW 41.32.760, except that a  
29 member retiring pursuant to this subsection shall have the retirement  
30 allowance actuarially reduced to reflect the difference in the number  
31 of years between age at retirement and the attainment of age sixty-  
32 five.

33 ((+3+)) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
34 completed at least thirty service credit years and has attained age  
35 fifty-five shall be eligible to retire and to receive a retirement  
36 allowance computed according to the provisions of RCW 41.32.760, except  
37 that a member retiring pursuant to this subsection shall have the

1 retirement allowance reduced by three percent per year to reflect the  
2 difference in the number of years between age at retirement and the  
3 attainment of age sixty-five.

4 **Sec. 4.** RCW 41.32.875 and 2000 c 247 s 903 are each amended to  
5 read as follows:

6 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
7 and who has:

8 (a) Completed ten service credit years; or

9 (b) Completed five service credit years, including twelve service  
10 credit months after attaining age fifty-four; or

11 (c) Completed five service credit years by July 1, 1996, under plan  
12 2 and who transferred to plan 3 under RCW 41.32.817;

13 shall be eligible to retire and to receive a retirement allowance  
14 computed according to the provisions of RCW 41.32.840.

15 (2) UNREDUCED RETIREMENT. Any member who has completed the number  
16 of service credit years required in subsection (1) of this section and  
17 for whom the sum of the number of years of the member's age and the  
18 number of years of the member's service credit equals ninety or more  
19 shall be eligible to retire and receive a retirement allowance computed  
20 according to the provisions of RCW 41.32.840.

21 (3) EARLY RETIREMENT. Any member who has attained at least age  
22 fifty-five and has completed at least ten years of service shall be  
23 eligible to retire and to receive a retirement allowance computed  
24 according to the provisions of RCW 41.32.840, except that a member  
25 retiring pursuant to this subsection shall have the retirement  
26 allowance actuarially reduced to reflect the difference in the number  
27 of years between age at retirement and the attainment of age sixty-  
28 five.

29 ((+3+)) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
30 completed at least thirty service credit years and has attained age  
31 fifty-five shall be eligible to retire and to receive a retirement  
32 allowance computed according to the provisions of RCW 41.32.840, except  
33 that a member retiring pursuant to this subsection shall have the  
34 retirement allowance reduced by three percent per year to reflect the  
35 difference in the number of years between age at retirement and the  
36 attainment of age sixty-five.

1       **Sec. 5.** RCW 41.35.420 and 2000 c 247 s 905 are each amended to  
2 read as follows:

3       (1) **NORMAL RETIREMENT.** Any member with at least five service  
4 credit years who has attained at least age sixty-five shall be eligible  
5 to retire and to receive a retirement allowance computed according to  
6 the provisions of RCW 41.35.400.

7       (2) **UNREDUCED RETIREMENT.** Any member who has completed at least  
8 five service credit years and for whom the sum of the number of years  
9 of the member's age and the number of years of the member's service  
10 credit equals ninety or more shall be eligible to retire and receive a  
11 retirement allowance computed according to the provisions of RCW  
12 41.35.400.

13       (3) **EARLY RETIREMENT.** Any member who has completed at least twenty  
14 service credit years and has attained age fifty-five shall be eligible  
15 to retire and to receive a retirement allowance computed according to  
16 the provisions of RCW 41.35.400, except that a member retiring pursuant  
17 to this subsection shall have the retirement allowance actuarially  
18 reduced to reflect the difference in the number of years between age at  
19 retirement and the attainment of age sixty-five.

20       ~~((+3+))~~ (4) **ALTERNATE EARLY RETIREMENT.** Any member who has  
21 completed at least thirty service credit years and has attained age  
22 fifty-five shall be eligible to retire and to receive a retirement  
23 allowance computed according to the provisions of RCW 41.35.400, except  
24 that a member retiring pursuant to this subsection shall have the  
25 retirement allowance reduced by three percent per year to reflect the  
26 difference in the number of years between age at retirement and the  
27 attainment of age sixty-five.

28       **Sec. 6.** RCW 41.35.680 and 2000 c 247 s 906 are each amended to  
29 read as follows:

30       (1) **NORMAL RETIREMENT.** Any member who is at least age sixty-five  
31 and who has:

32       (a) Completed ten service credit years; or

33       (b) Completed five service credit years, including twelve service  
34 credit months after attaining age fifty-four; or

35       (c) Completed five service credit years by September 1, 2000, under  
36 the public employees' retirement system plan 2 and who transferred to  
37 plan 3 under RCW 41.35.510;

1 shall be eligible to retire and to receive a retirement allowance  
2 computed according to the provisions of RCW 41.35.620.

3 (2) UNREDUCED RETIREMENT. Any member who has completed the number  
4 of service credit years required in subsection (1) of this section and  
5 for whom the sum of the number of years of the member's age and the  
6 number of years of the member's service credit equals ninety or more  
7 shall be eligible to retire and receive a retirement allowance computed  
8 according to the provisions of RCW 41.35.620.

9 (3) EARLY RETIREMENT. Any member who has attained at least age  
10 fifty-five and has completed at least ten years of service shall be  
11 eligible to retire and to receive a retirement allowance computed  
12 according to the provisions of RCW 41.35.620, except that a member  
13 retiring pursuant to this subsection shall have the retirement  
14 allowance actuarially reduced to reflect the difference in the number  
15 of years between age at retirement and the attainment of age sixty-  
16 five.

17 ((+3+)) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
18 completed at least thirty service credit years and has attained age  
19 fifty-five shall be eligible to retire and to receive a retirement  
20 allowance computed according to the provisions of RCW 41.35.620, except  
21 that a member retiring pursuant to this subsection shall have the  
22 retirement allowance reduced by three percent per year to reflect the  
23 difference in the number of years between age at retirement and the  
24 attainment of age sixty-five.

25 NEW SECTION. Sec. 7. This act takes effect July 1, 2007.

--- END ---

# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:

CODE:

DATE:

BILL NUMBER:

**Office of the State Actuary**

**035**

**12/01/04**

**Z-0241.1**

## SUMMARY OF BILL:

This bill impacts the Plans 2 and 3 of the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS) and the School Employees' Retirement System (SERS) by offering unreduced retirement to any vested member for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more ("rule of 90").

Effective Date: July 1, 2007

## CURRENT SITUATION:

Currently, in the PERS, TRS and SERS Plans 2/3, a member is eligible for either normal, early or alternate early retirement. The early retirement provisions involve reduced benefits. Normal retirement is a full benefit.

In the Plans 2, normal retirement is available to those who have earned at least five years of service credit and who have attained age 65. This bill would add another category of retirement that involves a full or "unreduced" benefit. It would apply to any vested member for whom the sum of the number of years of the member's age and the number of years of the member's service credit equals ninety or more ("rule of 90").

In the Plans 3, normal retirement is currently available to any member who is at least age 65 and who has completed ten service credit years, or who has completed five service years including twelve service credit months after attaining age 54. This bill would provide an unreduced retirement benefit to any vested Plan 3 member who satisfies the rule of 90.

## MEMBERS IMPACTED:

We estimate that 82,259 members out of 117,262 active members in PERS 2, 13,497 out of 17,548 active members in PERS 3, 5,209 out of 7,637 active members in TRS 2, 37,310 members out of 47,263 active members in TRS 3, 12,455 out of 21,504 active members in SERS 2, and 16,167 members out of 27,710 active members in SERS 3 would be affected by this bill.

For a member impacted by this bill, the increase in benefits would be the removal of benefit reduction for early retirement without the Rule of 90. For example, a member retiring at age 60 with 30 years of service would be entitled to an unreduced benefit instead of a benefit with a 15% reduction.

## ASSUMPTIONS:

We assumed that there would be an increase in retirement rates due to the rule of 90. The additional rates or "kickers" are provided at the end of this fiscal note.

## FISCAL IMPACT:

### Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System (for existing members impacted by this bill) and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>		Current	Increase	Total
<b>Actuarial Present Value of Projected Benefits</b> (The Value of the Total Commitment to all Current Members)	<b>PERS 2/3</b>	\$ 14,278	\$ 762	\$ 15,040
	<b>TRS 2/3</b>	\$ 5,220	\$ 383	\$ 5,603
	<b>SERS 2/3</b>	\$ 2,138	\$ 83	\$ 2,221
<b>Unfunded Actuarial Accrued Liability</b> (The Portion of the Plan 1 Liability that is Amortized at 2024)	<b>PERS 1</b>	\$ 2,620	\$ (25)	\$ 2,595
	<b>TRS 1</b>	\$ 1,416	\$ (24)	\$ 1,392
<b>Unfunded Liability (PBO)</b> (The Value of the Total Commitment to all Current Members Attributable to Past Service)	<b>PERS 2/3</b>	\$ (3,184)	\$ 402	\$ (2,782)
	<b>TRS 2/3</b>	\$ (1,397)	\$ 183	\$ (1,214)
	<b>SERS 2/3</b>	\$ (425)	\$ 46	\$ (379)

### Increase in Contribution Rates: (Effective 9/1/2005)

Employee (plan 2 only)	<b>PERS 2</b>	0.73%
	<b>TRS 2</b>	1.00%
	<b>SERS 2</b>	0.57%
Employer	<b>PERS</b>	0.73%
	<b>TRS</b>	1.04%
	<b>SERS 2/3</b>	0.63%

The PERS Employer rate increase of 0.73% is made up of a normal cost rate increase of 0.75% minus a Plan 1 UAAL rate decrease of 0.02%.

The TRS Employer rate increase of 1.04% is made up of a normal cost rate increase of 1.10% minus a Plan 1 UAAL rate decrease of 0.06%.

The SERS Employer rate increase of 0.63% is made up of a normal cost rate increase of 0.65% minus a Plan 1 UAAL rate decrease of 0.02%.

## Fiscal Budget Determinations:

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>	<b>Total</b>
<b>2005-2007</b>				
<b>State:</b>				
General Fund	\$18.3	\$65.3	\$8.0	\$91.6
Non-General Fund	<u>30.2</u>	<u>0.0</u>	<u>0.0</u>	<u>30.2</u>
<b>Total State</b>	<b>48.5</b>	<b>65.3</b>	<b>8.0</b>	<b>121.8</b>
Local Government	43.0	13.4	7.1	63.5
Total Employer	91.5	78.7	15.1	185.3
 Total Employee	 \$65.3	 \$8.6	 \$4.8	 \$78.7
<b>2007-2009</b>				
<b>State:</b>				
General Fund	\$20.5	\$69.0	\$8.7	\$98.2
Non-General Fund	<u>33.8</u>	<u>0.0</u>	<u>0.0</u>	<u>33.8</u>
<b>Total State</b>	<b>54.3</b>	<b>69.0</b>	<b>8.7</b>	<b>132.0</b>
Local Government	48.2	14.1	7.7	70.0
Total Employer	102.5	83.1	16.4	202.0
 Total Employee	 \$70.3	 \$8.6	 \$4.9	 \$83.8
<b>2005-2030</b>				
<b>State:</b>				
General Fund	\$316.5	\$1,213.6	\$130.0	\$1,660.1
Non-General Fund	<u>522.1</u>	<u>0.0</u>	<u>0.0</u>	<u>522.1</u>
<b>Total State</b>	<b>838.6</b>	<b>1,213.6</b>	<b>130.0</b>	<b>2,182.2</b>
Local Government	743.6	248.5	115.2	1,107.3
Total Employer	1,582.2	1,462.1	245.2	3,289.5
 Total Employee	 \$898.9	 \$61.4	 \$36.6	 \$996.9



## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers Retirement System, School Employee's Retirement System, and Public Employee's Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

<b>Rule of 90</b>						
<b>Kicker Added to Retirement Probability</b>						
	<b>PERS</b>	<b>PERS</b>	<b>SERS</b>	<b>SERS</b>	<b>TRS</b>	<b>TRS</b>
	<b>Male</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>
Age						
55	0.35	0.29	0.30	0.30	0.30	0.30
56	0.35	0.29	0.30	0.30	0.30	0.30
57	0.35	0.29	0.30	0.30	0.30	0.30
58	0.29	0.22	0.30	0.30	0.30	0.30
59	0.29	0.22	0.30	0.30	0.30	0.30
60	0.29	0.22	0.30	0.30	0.30	0.30
61	0.29	0.22	0.25	0.30	0.30	0.30
62	0.29	0.16	0.25	0.20	0.30	0.20
63	0.11	0.16	0.25	0.20	0.25	0.20
64	0.11	0.16	0.25	0.20	0.25	0.20

*The kicker (additional retirement rate) is added to the retirement probability at the age when a member is first eligible for the Rule of 90. For each year after the year first eligible, 25% of the kicker is added.*

4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

8. The entry age normal cost increase for the bill is 0.27% for PERS Plan 2 members, 0.28% for PERS employers, 0.59% for TRS employers, and 0.24% for SERS employers. The entry age normal cost increase was used to determine the increase in funding expenditures for future new entrants.

## **GLOSSARY OF ACTUARIAL TERMS:**

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Projected Benefits:** Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Actuarial accrued liability:** Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

**Unfunded Actuarial Accrued Liability (UAAL):** The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

# Select Committee on Pension Policy

## TRS Service Credit Purchase

*(November 22, 2004)*

---

### **Issue**

The issue before the full SCPP is whether to propose legislation to provide eligible members of the TRS Plans 2 and 3 the opportunity, at the time of retirement, to make a one-time purchase of up to five years of additional service credit in order to offset the required benefit reductions for early retirement.

### **Staff**

Laura Harper, Senior Research Analyst/Legal  
(360) 586-7616

### **Members Impacted**

This bill impacts members of the TRS Plans 2/3.

Any future retiree from TRS Plans 2 and 3 could potentially be impacted by this bill. As of our latest actuarial valuation, there were 54,900 active members in TRS Plans 2 and 3.

### **Current Situation**

This option is not currently available for members of TRS. Eligible members of TRS Plans 2/3, however, could purchase an equivalent annuity through a private sector annuity provider. The cost of an annuity will vary from provider to provider and will vary based on the particular annuity product offered. Members of PERS and SERS will have the option to purchase this kind of service credit as of July 1, 2006.

### **Proposal**

This proposal would provide eligible members of the TRS Plans 2 and 3 the opportunity, at the time of retirement, to make a one-time purchase of up to five years of service or additional service credit. The service credit purchased would not need to correspond to any actual service within a Washington or any other retirement system, hence the term "air time." The service credit can be used to increase early and alternate early retirement benefits by offsetting the required reductions for early retirement.

Eligible members would include only members who are eligible for early retirement or alternate early retirement under the provisions of TRS. The service credit purchased under this bill would not be membership service and could not be used to qualify for retirement. The member would pay the full actuarial cost of the service credit with a lump sum payment, eligible rollover, direct rollover, and/or trustee-to-trustee transfer from an eligible retirement plan at the time of retirement.

### **Policy Analysis**

This proposal creates consistency with PERS and SERS 2/3 with respect to "air time" and promotes the legislative policy that the retirement systems of the state shall provide similar benefits wherever possible. See RCW 41.50.005(1). The five-year limit on "air time" is required by federal law.

It should be noted that TRS members have another service credit option that PERS and SERS members do not have: the ability to elect to apply service credit earned in an out-of-state retirement system that covers teachers in public schools solely for the purpose of determining the time at which the member may retire. See RCW 41.32.065. TRS members are not required to pay for the out-of-state service credit, as it is not used to increase the member's benefits.

It should also be noted that the SCPP is considering another proposal that would allow members of TRS Plans 2/3 to purchase up to seven years of service credit earned as a teacher in a public school in another state or with the federal government. This latter form of service credit would be treated as membership service for all purposes. This means that it can be used to qualify for retirement and to increase benefits.

### **Procedural Posture/Executive Committee Recommendation**

As the result of the September 7, 2004 briefing of the SCPP on the issue of Age 65 Retirement, an "age 65 subgroup" was formed to make specific recommendations to the SCPP. Last month, the subgroup recommended to the Executive Committee that the SCPP consider legislation to provide TRS 2/3 members with the opportunity to purchase up to five years of "air time" in order to offset reductions for early retirement. On November 9, 2004, the Executive Committee directed staff to prepare a bill draft and fiscal note on the TRS "air time" proposal.

### **Bill (Draft)**

The bill draft for this proposal is attached.

### **Fiscal Note (Draft)**

The draft fiscal note for this proposal is attached.

1 AN ACT Relating to permitting members of the teachers' retirement  
2 system plan 2 and plan 3 who qualify for early retirement or alternate  
3 early retirement to make a one-time purchase of additional service  
4 credit; adding new sections to chapter 41.32 RCW; and providing an  
5 effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.32 RCW  
8 under the subchapter heading "plan 2" to read as follows:

9 (1) A member eligible to retire under RCW 41.32.765 (2) or (3) may,  
10 at the time of filing a written application for retirement with the  
11 department, apply to the department to make a one-time purchase of up  
12 to five years of additional service credit.

13 (2) To purchase additional service credit under this section, a  
14 member shall pay the actuarial equivalent value of the resulting  
15 increase in the member's benefit.

16 (3) Subject to rules adopted by the department, a member purchasing  
17 additional service credit under this section may pay all or part of the  
18 cost with a lump sum payment, eligible rollover, direct rollover, or  
19 trustee-to-trustee transfer from an eligible retirement plan. The

1 department shall adopt rules to ensure that all lump sum payments,  
2 rollovers, and transfers comply with the requirements of the internal  
3 revenue code and regulations adopted by the internal revenue service.  
4 The rules adopted by the department may condition the acceptance of a  
5 rollover or transfer from another plan on the receipt of information  
6 necessary to enable the department to determine the eligibility of any  
7 transferred funds for tax-free rollover treatment or other treatment  
8 under federal income tax law.

9 (4) Additional service credit purchased under this section is not  
10 membership service, and may not be used to qualify a member for  
11 retirement under RCW 41.32.765.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW  
13 under the subchapter heading "plan 3" to read as follows:

14 (1) A member eligible to retire under RCW 41.32.875 (2) or (3) may,  
15 at the time of filing a written application for retirement with the  
16 department, apply to the department to make a one-time purchase of up  
17 to five years of additional service credit.

18 (2) To purchase additional service credit under this section, a  
19 member shall pay the actuarial equivalent value of the resulting  
20 increase in the member's benefit.

21 (3) Subject to rules adopted by the department, a member purchasing  
22 additional service credit under this section may pay all or part of the  
23 cost with a lump sum payment, eligible rollover, direct rollover, or  
24 trustee-to-trustee transfer from an eligible retirement plan. The  
25 department shall adopt rules to ensure that all lump sum payments,  
26 rollovers, and transfers comply with the requirements of the internal  
27 revenue code and regulations adopted by the internal revenue service.  
28 The rules adopted by the department may condition the acceptance of a  
29 rollover or transfer from another plan on the receipt of information  
30 necessary to enable the department to determine the eligibility of any  
31 transferred funds for tax-free rollover treatment or other treatment  
32 under federal income tax law.

33 (4) Additional service credit purchased under this section is not  
34 membership service, and may not be used to qualify for retirement under  
35 RCW 41.32.875.

1      NEW SECTION.    **Sec. 3.**    This act takes effect July 1, 2006.

--- END ---



# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:

CODE: DATE:

BILL NUMBER:

**Office of the State Actuary**

**035 11/18/2004**

**Z-0202.1/Z-0203.1**

## SUMMARY OF BILL:

This bill impacts the Teachers' Retirement System (TRS) Plans 2 and 3 by allowing eligible members, at the time of retirement, to purchase up to five years of additional service credit. The service credit can be used to help offset the benefit reductions for early retirement.

Eligible members would include only members who are eligible for early retirement under the provisions of the system. Additional service credit purchased under this bill does not constitute membership service and, therefore, could not be used to qualify for retirement.

A member purchasing additional service credit under this bill would pay the full actuarial cost of the service credit with a lump sum payment, eligible rollover, direct rollover, and/or trustee-to-trustee transfer from an eligible retirement plan (at the time of retirement).

Effective Date: 7/1/2006

## CURRENT SITUATION:

This option is not currently available through the Department of Retirement Systems. Current members, however, could purchase an equivalent annuity through a private sector annuity provider. The cost of an annuity will vary from provider to provider and will vary based on the particular annuity product offered.

## MEMBERS IMPACTED:

Any future retiree from TRS Plans 2 and 3 could potentially be impacted by this bill. As of our latest actuarial valuation, there were 54,900 active members in TRS Plans 2 and 3.

## FISCAL IMPACT:

None.

We have assumed that this benefit proposal will not change future retirement behavior in the affected retirement systems since existing members currently have access to private-sector annuity providers that currently provide similar annuity products. We have also assumed that the full actuarial cost will include the cost of any adverse selection that may develop due to mortality experience and/or interest rate timing by the member.

## Select Committee on Pension Policy

# TRS Out-of-State Service Credit

(November 30, 2004)

---

### Issue

The issue before the SCPP is whether to propose legislation allowing eligible members of the Teachers' Retirement System (TRS) Plans 2 and 3 to purchase up to seven years of membership service credit for public education experience as a teacher in a public school in another state or with the federal government.

### Staff

Laura Harper, Senior Research Analyst/Legal  
(360) 586-7616

### Members Impacted

This proposal impacts eligible members of TRS Plans 2 and 3. We estimate that 1,371 TRS 2 members out of 7,637 active TRS 2 members, and 26,038 TRS 3 members out of 47,263 active TRS 3 members would be affected by this bill.

### Current Situation

Currently members of TRS may use out-of-state service credit solely for the purpose of determining the time at which the member may retire. The service credit is not purchased and it is not membership service. The member's benefit is actuarially reduced to recognize the difference between the age a member would have first been able to retire based on service in the State of Washington and the member's retirement age using the out-of-state service credit.

## **Proposal**

This bill impacts the Teachers' Retirement System (TRS) by allowing members of Plans 2 and 3 to make a one-time purchase of up to seven years of service credit for public education experience (state and federal) outside the Washington State Retirement System. The public education experience claimed must have been covered by a governmental retirement or pension plan, and the member must not be receiving or eligible to receive an unreduced retirement benefit that includes the service to be purchased. To take advantage of this provision, a member must have at least five and less than ten years of service credit in TRS. The purchase cannot result in the purchase of service credit that is greater than the member's total years of creditable service in the retirement system. The service credit purchased is membership service and may be used to qualify the member for retirement.

The member pays the product of the sum of the applicable employer and employee contribution rates multiplied by the member's salary at the time of purchase, and further multiplied by the total number of years of service credit to be purchased, plus compounded interest for the period for which the service credit is purchased at a rate equal to the investment rate of return assumption set forth in the actuarial funding chapter, Chapter 41.45 RCW. The applicable employer and employee contribution rates are based on the member's age at entry into TRS and calculated under the entry age normal cost method. All or part of the cost may be paid by a rollover or transfer from an eligible retirement plan, and the employer may pay all or a portion of the member's cost.

## **Policy Analysis**

This proposal provides a benefit to the TRS Plans 2 and 3 that is not available in the SERS or PERS Plans 2/3. This proposal is inconsistent with the legislative policy that the retirement systems of the state shall provide similar benefits wherever possible. See RCW 41.50.005(1). If passed this proposal could lead to "leapfrogging" in that members of other retirement systems may seek similar or improved service credit purchase opportunities in the future. Proponents of this legislation have argued that the teaching profession has a unique need for this benefit in order to assist in recruitment and retention of teachers.

It should be noted that TRS members have another service credit option that PERS and SERS members do not have: the ability to elect to apply service credit earned in an out-of-state retirement system that covers teachers in public schools solely for the purpose of determining the time at which the member may retire. See RCW 41.32.065. TRS members are not required to pay for the out-of-state credit, as it is not used to increase the amount of their benefit.

On the other hand TRS Plan 2/3 members do not have a service credit option that PERS and SERS Plan 2/3 members have, which is the ability at retirement to make a one-time purchase of up to five years of additional service credit (or "air time") in order to offset the required benefit reductions for early retirement. The SCPP is considering a proposal this interim that would extend this option to TRS Plan 2/3 members. There is no cost for this proposal because the purchase price for "air time" is the actuarial cost, which is paid in full by the member.

#### **Procedural Posture/Executive Committee Recommendation**

As the result of the September 7, 2004 briefing of the SCPP on the issue of Age 65 Retirement, an "age 65 subgroup" was formed to make specific recommendations to the SCPP. Last month, the subgroup recommended to the Executive Committee that the SCPP consider legislation to provide eligible members of TRS Plans 2/3 the opportunity to purchase up to seven years of out-of-state service credit as membership service. On November 9, 2004, the Executive Committee directed staff to prepare a bill draft and fiscal note on the out-of-state service credit proposal.

#### **Bill (Draft)**

The bill draft for this proposal is attached.

#### **Fiscal Note (Draft)**

The draft fiscal note for this proposal is attached.

1       AN ACT Relating to purchasing service credit in plan 2 and plan 3  
2 of the teachers' retirement system for public education experience  
3 performed as a teacher in a public school in another state or with the  
4 federal government; adding new sections to chapter 41.32 RCW; and  
5 providing an effective date.

6       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7       NEW SECTION.   **Sec. 1.** A new section is added to chapter 41.32 RCW  
8 under the subchapter heading "plan 2" to read as follows:

9       (1) An active member who has completed a minimum of five years of  
10 creditable service in the teachers' retirement system may, upon written  
11 application to the department, make a one-time purchase of up to seven  
12 years of service credit for public education experience outside the  
13 Washington state retirement system, subject to the following  
14 limitations:

15       (a) The public education experience being claimed must have been  
16 performed as a teacher in a public school in another state or with the  
17 federal government;

18       (b) The public education experience being claimed must have been

1 covered by a retirement or pension plan provided by a state or  
2 political subdivision of a state, or by the federal government;

3 (c) The member is not currently receiving a benefit or currently  
4 eligible to receive an unreduced retirement benefit from a retirement  
5 or pension plan of a state or political subdivision of a state or the  
6 federal government that includes the service credit to be purchased;

7 (d) The member has less than ten years of creditable service in the  
8 retirement system; and

9 (e) The purchase will not result in the purchase of service credit  
10 years that exceed the member's total years of creditable service in the  
11 retirement system at the time of purchase.

12 (2) The service credit purchased shall be membership service, and  
13 may be used to qualify the member for retirement.

14 (3) The member shall pay the product of the sum of the employer and  
15 employee contribution rates multiplied by the member's annualized  
16 salary at the time of purchase and further multiplied by the total  
17 number of years of service credit to be purchased, plus compounded  
18 interest for the period for which the service credit is purchased at a  
19 rate equal to the investment rate of return assumption set forth in  
20 chapter 41.45 RCW. Compounded interest shall be applied to each year  
21 of service credit purchased as follows: No interest for the first  
22 year, one years' interest for the second year, two years' interest for  
23 the third year, three years' interest for the fourth year, four years'  
24 interest for the fifth year, five years' interest for the sixth year,  
25 and six years' interest for the seventh year. The applicable employer  
26 and employee contribution rates shall be based on the member's age at  
27 entry into the retirement system and calculated under the entry age  
28 normal cost method.

29 (4) The member may pay all or part of the cost of the service  
30 credit to be purchased with a lump sum payment, eligible rollover,  
31 direct rollover, or trustee-to-trustee transfer from an eligible  
32 retirement plan. The department shall adopt rules to ensure that all  
33 lump sum payments, rollovers, and transfers comply with the  
34 requirements of the internal revenue code and regulations adopted by  
35 the internal revenue service. The rules adopted by the department may  
36 condition the acceptance of a rollover or transfer from another plan on  
37 the receipt of information necessary to enable the department to

determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(5) The employer may pay all or a portion of the member's cost of the service credit purchased under this section.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.32 RCW under the subchapter heading "plan 3" to read as follows:

(1) An active member who has completed a minimum of five years of creditable service in the teachers' retirement system may, upon written application to the department, make a one-time purchase of up to seven years of service credit for public education experience outside the Washington state retirement system, subject to the following limitations:

(a) The public education experience being claimed must have been performed as a teacher in a public school in another state or with the federal government;

(b) The public education experience being claimed must have been covered by a retirement or pension plan provided by a state or political subdivision of a state, or by the federal government;

(c) The member is not currently receiving a benefit or currently eligible to receive an unreduced retirement benefit from a retirement or pension plan of a state or political subdivision of a state or the federal government that includes the service credit to be purchased;

(d) The member has less than ten years of creditable service in the retirement system; and

(e) The purchase will not result in the purchase of service credit years that exceed the member's total years of creditable service in the retirement system at the time of purchase.

(2) The service credit purchased shall be membership service, and may be used to qualify the member for retirement.

(3) The member shall pay the product of the employer contribution rate multiplied by the member's annualized salary at the time of purchase and further multiplied by the total number of years of service credit to be purchased, plus compounded interest for the period for which the service credit is purchased at a rate equal to the investment rate of return assumption set forth in chapter 41.45 RCW. Compounded interest shall be applied to each year of service credit purchased as follows: No interest for the first year, one years' interest for the

1 second year, two years' interest for the third year, three years'  
2 interest for the fourth year, four years' interest for the fifth year,  
3 five years' interest for the sixth year, and six years' interest for  
4 the seventh year. The total amount paid by the member shall be deemed  
5 a contribution on behalf of the employer for the purpose of RCW  
6 41.32.867, and shall not be refundable. The applicable employer  
7 contribution rate shall be based on the member's age at entry into the  
8 retirement system and calculated under the entry age normal cost  
9 method.

10 (4) The member may pay all or part of the cost of the service  
11 credit to be purchased with a lump sum payment, eligible rollover,  
12 direct rollover, or trustee-to-trustee transfer from an eligible  
13 retirement plan. The department shall adopt rules to ensure that all  
14 lump sum payments, rollovers, and transfers comply with the  
15 requirements of the internal revenue code and regulations adopted by  
16 the internal revenue service. The rules adopted by the department may  
17 condition the acceptance of a rollover or transfer from another plan on  
18 the receipt of information necessary to enable the department to  
19 determine the eligibility of any transferred funds for tax-free  
20 rollover treatment or other treatment under federal income tax law.

21 (5) The employer may pay all or a portion of the member's cost of  
22 the service credit purchased under this section.

23 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2006.

--- END ---



# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	11/29/04	Out of State Service

## SUMMARY OF BILL:

This bill impacts the Teachers' Retirement System (TRS) by allowing members of Plans 2 and 3 to make a one-time purchase of up to seven years of service credit for public education experience (state and federal) outside the Washington State Retirement System. The public education experience claimed must have been covered by a governmental retirement or pension plan, and the member must not be receiving a benefit or eligible to receive an unreduced retirement benefit that includes the service to be purchased. To take advantage of this provision, a member must have at least five and less than ten years of service credit in TRS. The purchase cannot result in the purchase of service credit that is greater than the member's total years of creditable service in the retirement system.

The member pays the product of the sum of the applicable employer and employee contribution rates multiplied by the member's salary at the time of purchase, and further multiplied by the total number of years of service credit to be purchased, plus compounded interest for the period for which the service credit is purchased at a rate equal to the investment rate of return assumption set forth in the actuarial funding chapter, Chapter 41.45 RCW. The applicable employer and employee contribution rates are based on the member's age at entry into TRS and calculated under the entry age normal cost method. All or part of the cost may be paid by a rollover or transfer from an eligible retirement plan, and the employer may pay all or a portion of the member's cost. The service credit purchased is membership service and may be used to qualify the member for retirement.

Effective Date: January 1, 2006.

## CURRENT SITUATION:

Currently members of TRS may use out-of-state service credit solely for the purpose of determining the time at which the member may retire. The service credit is not purchased and it is not membership service. The member's benefit is actuarially reduced to recognize the difference between the age the member would have first been able to retire based on service in the State of Washington and the member's retirement age using the out-of-state service credit.

## MEMBERS IMPACTED:

We estimate that 1,371 TRS 2 members out of 7,637 active TRS 2 members, and 26,038 TRS 3 members out of 47,263 active TRS 3 members would be affected by this bill.

We estimate that a typical member impacted by this bill would purchase 1.15 years of out-of-state service. The entry age normal cost rate used to determine the purchase price would vary by the member's entry

age. The cost of purchasing 1.15 years of service for a typical member with a salary of \$50,000 would be as follows:

Plan 2 Member:  $\$50,000 \times 11.80\% \times (1 + 1.08(.15)) = \$6,856$

Plan 3 Member:  $\$50,000 \times 5.90\% \times (1 + 1.08(.15)) = \$3,428$

## **ASSUMPTIONS:**

We estimated that the average member would buy 1.15 years of service based on a sample of out-of-state service for 6,850 members. These members had a total of 10,815 years of out-of-state service, or an average of 1.58 years per member. When the service was limited to 7 years, the members in the sample had a total of 7,910 years, or an average of 1.15 years.

Plan 2 members pay both the member and the employer rate. Plan 3 members pay the employer rate only. The contributions to purchase Plan 2 service would be included with the regular and refundable Plan 2 member contributions. The contributions to purchase Plan 3 service would not be refundable but would be used to determine the Plan 3 defined benefit. The purchase of the first year has no interest. The second year interest rate is 8%.

We included the out-of-state service for the benefit calculation, retirement eligibility, and vesting service. Some of our demographic assumptions such as turnover and step salary increases are service based. Our experience studies to determine these rates are based on TRS service only. For estimating the cost of this bill, we assumed that a member's turnover and merit increases would be based on service with TRS only.

## **FISCAL IMPACT:**

### **Description:**

The member would pay for the cost of the additional service, but the plan would be would partially subsidizing the cost because the interest is based on the date of purchase, not on the adjusted date of hire.

### **Actuarial Determinations:**

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>		TRS 2/3	
	Current	Increase	Total
<b>Actuarial Present Value of Projected Benefits</b> (The Value of the Total Commitment to all Current Members)	\$5,220	\$19	\$5,239
<b>Unfunded Actuarial Accrued Liability</b> (The Portion of the Plan 1 Liability that is Amortized at 2024)	N/A	N/A	N/A
<b>Unfunded Liability (PBO)</b> (The Value of the Total Commitment to all Current Members Attributable to Past Service)	\$(1,397)	\$15	\$(1,382)
<b>Increase in Contribution Rates: (Effective 9/1/2005)</b>			
Employee (Plan 2)	0.05%		
Employer State	0.05%		

### **Fiscal Budget Determinations:**

As a result of the higher required contribution rate, the increase in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<u><b>TRS 2/3</b></u>
<b>2005-2007</b>	
<b>State:</b>	
General Fund	\$3.7
Non-General Fund	<u>0.0</u>
<b>Total State</b>	<b>\$3.7</b>
Local Government	\$0.8
Total Employer	\$4.5
Total Employee	\$0.4
<b>2007-2009</b>	
<b>State:</b>	
General Fund	\$4.2
Non-General Fund	<u>0.0</u>
<b>Total State</b>	<b>\$4.2</b>
Local Government	\$0.9
Total Employer	\$5.1
Total Employee	\$0.4
<b>2005-2030</b>	
<b>State:</b>	
General Fund	\$108.2
Non-General Fund	<u>0.0</u>
<b>Total State</b>	<b>\$108.2</b>
Local Government	\$22.2
Total Employer	\$130.4
Total Employee	\$3.1

## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers' Retirement System.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.
8. The entry age normal cost increase for the bill is 0.07% for TRS employers. The entry age normal cost increase was used to determine the increase in funding expenditures for future new entrants.

## GLOSSARY OF ACTUARIAL TERMS:

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Projected Benefits:** Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Actuarial accrued liability:** Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

**Unfunded Actuarial Accrued Liability (UAAL):** The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

## Select Committee on Pension Policy

# Plan 1 COLA / Gain-sharing Purchasing Power Subgroup Proposal

(December 1, 2004)

---

### Proposal

Repeal plan 1 gain-sharing and use approximately one-half of the long-term estimated cost to fund the following benefit improvements in PERS 1 and TRS 1:

- Enhance the annual increase amount by 20 cents, raising the July 1, 2005 amount from \$1.25 to \$1.45.
- Establish a \$1,000 alternative minimum benefit for members with 20 years of service who have been retired 25 years.
- Establish a 3% annual escalator for both \$1,000 alternative minimum benefit provisions (existing and proposed).
- Amend Uniform COLA eligibility to include all PERS 1 and TRS 1 retirees who have been retired one year and will have attained age 66 by December 31<sup>st</sup> of the calendar year in which the increase is given.

This is an expansion and combination of several options presented during the "Purchasing Power Benefit Options" presentation to the SCPP on August 17, 2004.

### Staff

Robert Wm. Baker, Senior Research Analyst  
(360) 586-9237

## **Members Impacted**

As of the 2003 valuation, there were 19,740 active and 54,372 retired PERS 1 members; and 11,175 active and 33,855 retired TRS 1 members.

The 20 cent COLA and the repeal of Plan 1 gain-sharing will impact all 77,254 members of PERS 1 and all 46,677 members of TRS 1. The new eligibility requirements for the \$1,000 minimum will impact 694 PERS 1 members and 461 TRS 1 members, and indexing the \$1,000 will impact an additional 391 PERS 1 members and 338 TRS 1 members. The age 66 COLA will impact half the members in PERS 1 and TRS 1 under age 65.

For a typical member impacted by this bill, the uncertain and irregular adjustment to the Annual Increase Amount provided by gain-sharing is exchanged for a definitely determinable increase. Instead of providing adjustments to the Annual Increase Amount with gain-sharing, the Annual Increase Amount would be increased by 20 cents. A retiree with 25 years of service would get an increase of \$5 per month.

## **Current Situation**

The Annual Increase Amount is multiplied by each retiree's months of service to determine the annual Uniform increase retirees receive when they are COLA eligible. The most recent Annual Increase Amount was \$1.21. The Annual Increase Amount increases each year by at least 3 percent. Gain-sharing is also used to boost the Annual Increase Amount; 38 cents of the current amount is a result of gain-sharing. The Annual Increase Amount is scheduled to increase to \$1.25 on July 1, 2005.

The current \$1,000 alternative minimum benefit was established in 2004. Members with 25 years of service who have been retired 20 years are eligible for this benefit. The benefit has no automatic escalator and, as a result, will effectively cease in 2010 when the original minimum benefit, which increases each year by the Annual Increase Amount, will produce a benefit greater than \$1,000 for a retired member with 25 years of service.

The current Uniform COLA provisions require PERS 1 and TRS 1 members to have been retired one year and to be at least age 66 on July 1<sup>st</sup> to be eligible for the adjustment paid on July 1<sup>st</sup>.

Currently, gain sharing in PERS 1 and TRS 1 occurs on even-numbered years. An extraordinary investment gain occurs when the average rate of return on assets for the previous 4-year period exceeds 10%. When this gain occurs, one-half of the gain for PERS 1 and TRS 1 is used to fund a permanent increase in the PERS 1 and TRS 1 Uniform COLA for current and future retirees.

## **History**

The Uniform COLA was established under Chapter 345 laws of 1995.

PERS 1 and TRS 1 gain-sharing was established under Chapter 340 laws of 1998.

The current \$1,000 alternative minimum benefit in PERS 1 and TRS 1 was established under Chapter 84 laws of 2004.

Benefit adequacy, particularly in regards to PERS 1 and TRS 1 inflation protection, was studied by the SCPP in the 2004 interim.



Bills to amend the Uniform COLA age eligibility requirements were introduced in the 2000, 2001, 2003, and 2004 legislative sessions. The most recent bills, HB 2539 and SB 6248, did not move from their respective fiscal committees.

### **Policy Analysis**

The policy implications within this trade-off proposal deal with contractual rights of benefits whose statutory basis includes the “non-contractual right” clause, the nature of the benefits being traded, and the value of a certain benefit compared to an uncertain benefit. An informal advice request from the Attorney General’s Office on these subjects resulted in the following:

1. There isn’t a clear answer whether gain-sharing is a vested, contractual right. It might not be a vested, contractual right because of the reservation clause.
2. If the court believes gain-sharing is a vested, contractual right, it is more likely than not that a court would find that the right has not been substantially impaired because members and beneficiaries were “put on notice” that the legislature may amend or repeal gain-sharing in the future (via the reservation clause).
3. With regard to comparable benefits, if gain-sharing were repealed and replaced by another benefit, courts favor comparable benefits which are similar to the old benefit.
4. Under the context of gain-sharing, it is reasonable to adjust the value of an uncertain and unpredictable benefit when determining the value of a comparable replacement which has little or no uncertainty.

### ***COLA for COLA***

This advice frames the proposal by maintaining any benefit trade-off should remain within the retiree COLA/purchasing power arena. Since gain-sharing is used to boost the annual increase amount for calculating retirees’ uniform COLA, any alternative benefit(s) should then be so related. Enhancing the uniform increase amount, expanding the qualification requirements to receive

minimum benefits, indexing those alternative minimum benefits by 3% per year, and lowering the age eligibility requirements for receipt of the Uniform COLA are all related to the protection of retirees' purchasing power, and would thus appear to be appropriate trade-off alternatives.

### ***Certainty for Uncertainty***

In addition, by placing a higher value on certainty, an alternate benefit may be less costly. Gain-sharing is a benefit that can be given a long-term expected value, but because of the variability of investment markets, it cannot be given a specific value in the near-term with a high degree of certainty. As a result, for those desiring a benefit with near-term certainty, part of the value of a long-term uncertain benefit may be traded to acquire that certainty.

The Purchasing Power Subgroup proposed to enhance select PERS 1 and TRS 1 COLA provisions by a total amount approximately half the long-term cost of Gain-sharing, thus giving greater value to a certain benefit and lesser value to an uncertain benefit. This can be illustrated in the following contribution rate accounting of the Purchasing Power Subgroup proposal.

<b>Plan 1 Gain-Sharing Trade-off</b>		
	<b>% of Pay for Employers</b>	
	<b>PERS 1</b>	<b>TRS 1</b>
Long-term Expected Gain-sharing Cost	0.40%	0.84%
1. 20¢ Increase in Annual Amount	0.18%	0.37%
2. Age 66 COLA Eligibility Changes	0.03%	0.04%
3. \$1,000 Minimum Expanded and Indexed at 3%	0.01%	0.01%
Total of Three Proposals	<b>0.22%</b>	<b>0.42%</b>

As seen in the above tabulation, were gain-sharing to be pre-funded, employer contributions in PERS 1 and TRS 1 would increase 0.40% and 0.84% respectively. However, even if it were pre-funded, retired members would not receive a benefit from gain-sharing in 2005 as distributions occur in even numbered years.

**Bill Draft**

See attachment

**Fiscal Note**

See attachment

1 AN ACT Relating to the annual increase amount, alternate minimum  
2 benefits, and age eligibility requirements for receipt of the uniform  
3 increase in the public employees' retirement system plan 1 and the  
4 teachers' retirement system plan 1; amending RCW 41.32.010, 41.32.4851,  
5 41.32.489, 41.40.010, 41.40.010, 41.40.197, and 41.40.1984; repealing  
6 RCW 41.31.010, 41.31.020, and 41.31.030; providing an effective date;  
7 providing an expiration date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 41.32.010 and 2003 c 31 s 1 are each amended to read  
10 as follows:

11 As used in this chapter, unless a different meaning is plainly  
12 required by the context:

13 (1)(a) "Accumulated contributions" for plan 1 members, means the  
14 sum of all regular annuity contributions and, except for the purpose of  
15 withdrawal at the time of retirement, any amount paid under RCW  
16 41.50.165(2) with regular interest thereon.

17 (b) "Accumulated contributions" for plan 2 members, means the sum  
18 of all contributions standing to the credit of a member in the member's

1 individual account, including any amount paid under RCW 41.50.165(2),  
2 together with the regular interest thereon.

3 (2) "Actuarial equivalent" means a benefit of equal value when  
4 computed upon the basis of such mortality tables and regulations as  
5 shall be adopted by the director and regular interest.

6 (3) "Annuity" means the moneys payable per year during life by  
7 reason of accumulated contributions of a member.

8 (4) "Member reserve" means the fund in which all of the accumulated  
9 contributions of members are held.

10 (5)(a) "Beneficiary" for plan 1 members, means any person in  
11 receipt of a retirement allowance or other benefit provided by this  
12 chapter.

13 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
14 in receipt of a retirement allowance or other benefit provided by this  
15 chapter resulting from service rendered to an employer by another  
16 person.

17 (6) "Contract" means any agreement for service and compensation  
18 between a member and an employer.

19 (7) "Creditable service" means membership service plus prior  
20 service for which credit is allowable. This subsection shall apply  
21 only to plan 1 members.

22 (8) "Dependent" means receiving one-half or more of support from a  
23 member.

24 (9) "Disability allowance" means monthly payments during  
25 disability. This subsection shall apply only to plan 1 members.

26 (10)(a) "Earnable compensation" for plan 1 members, means:

27 (i) All salaries and wages paid by an employer to an employee  
28 member of the retirement system for personal services rendered during  
29 a fiscal year. In all cases where compensation includes maintenance  
30 the employer shall fix the value of that part of the compensation not  
31 paid in money.

32 (ii) For an employee member of the retirement system teaching in an  
33 extended school year program, two consecutive extended school years, as  
34 defined by the employer school district, may be used as the annual  
35 period for determining earnable compensation in lieu of the two fiscal  
36 years.

37 (iii) "Earnable compensation" for plan 1 members also includes the

1 following actual or imputed payments, which are not paid for personal  
2 services:

3 (A) Retroactive payments to an individual by an employer on  
4 reinstatement of the employee in a position, or payments by an employer  
5 to an individual in lieu of reinstatement in a position which are  
6 awarded or granted as the equivalent of the salary or wages which the  
7 individual would have earned during a payroll period shall be  
8 considered earnable compensation and the individual shall receive the  
9 equivalent service credit.

10 (B) If a leave of absence, without pay, is taken by a member for  
11 the purpose of serving as a member of the state legislature, and such  
12 member has served in the legislature five or more years, the salary  
13 which would have been received for the position from which the leave of  
14 absence was taken shall be considered as compensation earnable if the  
15 employee's contribution thereon is paid by the employee. In addition,  
16 where a member has been a member of the state legislature for five or  
17 more years, earnable compensation for the member's two highest  
18 compensated consecutive years of service shall include a sum not to  
19 exceed thirty-six hundred dollars for each of such two consecutive  
20 years, regardless of whether or not legislative service was rendered  
21 during those two years.

22 (iv) For members employed less than full time under written  
23 contract with a school district, or community college district, in an  
24 instructional position, for which the member receives service credit of  
25 less than one year in all of the years used to determine the earnable  
26 compensation used for computing benefits due under RCW 41.32.497,  
27 41.32.498, and 41.32.520, the member may elect to have earnable  
28 compensation defined as provided in RCW 41.32.345. For the purposes of  
29 this subsection, the term "instructional position" means a position in  
30 which more than seventy-five percent of the member's time is spent as  
31 a classroom instructor (including office hours), a librarian, or a  
32 counselor. Earnable compensation shall be so defined only for the  
33 purpose of the calculation of retirement benefits and only as necessary  
34 to insure that members who receive fractional service credit under RCW  
35 41.32.270 receive benefits proportional to those received by members  
36 who have received full-time service credit.

37 (v) "Earnable compensation" does not include:

1 (A) Remuneration for unused sick leave authorized under RCW  
2 41.04.340, 28A.400.210, or 28A.310.490;

3 (B) Remuneration for unused annual leave in excess of thirty days  
4 as authorized by RCW 43.01.044 and 43.01.041.

5 (b) "Earnable compensation" for plan 2 and plan 3 members, means  
6 salaries or wages earned by a member during a payroll period for  
7 personal services, including overtime payments, and shall include wages  
8 and salaries deferred under provisions established pursuant to sections  
9 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
10 shall exclude lump sum payments for deferred annual sick leave, unused  
11 accumulated vacation, unused accumulated annual leave, or any form of  
12 severance pay.

13 "Earnable compensation" for plan 2 and plan 3 members also includes  
14 the following actual or imputed payments which, except in the case of  
15 (b)(ii)(B) of this subsection, are not paid for personal services:

16 (i) Retroactive payments to an individual by an employer on  
17 reinstatement of the employee in a position or payments by an employer  
18 to an individual in lieu of reinstatement in a position which are  
19 awarded or granted as the equivalent of the salary or wages which the  
20 individual would have earned during a payroll period shall be  
21 considered earnable compensation, to the extent provided above, and the  
22 individual shall receive the equivalent service credit.

23 (ii) In any year in which a member serves in the legislature the  
24 member shall have the option of having such member's earnable  
25 compensation be the greater of:

26 (A) The earnable compensation the member would have received had  
27 such member not served in the legislature; or

28 (B) Such member's actual earnable compensation received for  
29 teaching and legislative service combined. Any additional  
30 contributions to the retirement system required because compensation  
31 earnable under (b)(ii)(A) of this subsection is greater than  
32 compensation earnable under (b)(ii)(B) of this subsection shall be paid  
33 by the member for both member and employer contributions.

34 (11) "Employer" means the state of Washington, the school district,  
35 or any agency of the state of Washington by which the member is paid.

36 (12) "Fiscal year" means a year which begins July 1st and ends June  
37 30th of the following year.

1 (13) "Former state fund" means the state retirement fund in  
2 operation for teachers under chapter 187, Laws of 1923, as amended.

3 (14) "Local fund" means any of the local retirement funds for  
4 teachers operated in any school district in accordance with the  
5 provisions of chapter 163, Laws of 1917 as amended.

6 (15) "Member" means any teacher included in the membership of the  
7 retirement system. Also, any other employee of the public schools who,  
8 on July 1, 1947, had not elected to be exempt from membership and who,  
9 prior to that date, had by an authorized payroll deduction, contributed  
10 to the member reserve.

11 (16) "Membership service" means service rendered subsequent to the  
12 first day of eligibility of a person to membership in the retirement  
13 system: PROVIDED, That where a member is employed by two or more  
14 employers the individual shall receive no more than one service credit  
15 month during any calendar month in which multiple service is rendered.  
16 The provisions of this subsection shall apply only to plan 1 members.

17 (17) "Pension" means the moneys payable per year during life from  
18 the pension reserve.

19 (18) "Pension reserve" is a fund in which shall be accumulated an  
20 actuarial reserve adequate to meet present and future pension  
21 liabilities of the system and from which all pension obligations are to  
22 be paid.

23 (19) "Prior service" means service rendered prior to the first date  
24 of eligibility to membership in the retirement system for which credit  
25 is allowable. The provisions of this subsection shall apply only to  
26 plan 1 members.

27 (20) "Prior service contributions" means contributions made by a  
28 member to secure credit for prior service. The provisions of this  
29 subsection shall apply only to plan 1 members.

30 (21) "Public school" means any institution or activity operated by  
31 the state of Washington or any instrumentality or political subdivision  
32 thereof employing teachers, except the University of Washington and  
33 Washington State University.

34 (22) "Regular contributions" means the amounts required to be  
35 deducted from the compensation of a member and credited to the member's  
36 individual account in the member reserve. This subsection shall apply  
37 only to plan 1 members.



1 (23) "Regular interest" means such rate as the director may  
2 determine.

3 (24) (a) "Retirement allowance" for plan 1 members, means monthly  
4 payments based on the sum of annuity and pension, or any optional  
5 benefits payable in lieu thereof.

6 (b) "Retirement allowance" for plan 2 and plan 3 members, means  
7 monthly payments to a retiree or beneficiary as provided in this  
8 chapter.

9 (25) "Retirement system" means the Washington state teachers'  
10 retirement system.

11 (26) (a) "Service" for plan 1 members means the time during which a  
12 member has been employed by an employer for compensation.

13 (i) If a member is employed by two or more employers the individual  
14 shall receive no more than one service credit month during any calendar  
15 month in which multiple service is rendered.

16 (ii) As authorized by RCW 28A.400.300, up to forty-five days of  
17 sick leave may be creditable as service solely for the purpose of  
18 determining eligibility to retire under RCW 41.32.470.

19 (iii) As authorized in RCW 41.32.065, service earned in an out-of-  
20 state retirement system that covers teachers in public schools may be  
21 applied solely for the purpose of determining eligibility to retire  
22 under RCW 41.32.470.

23 (b) "Service" for plan 2 and plan 3 members, means periods of  
24 employment by a member for one or more employers for which earnable  
25 compensation is earned subject to the following conditions:

26 (i) A member employed in an eligible position or as a substitute  
27 shall receive one service credit month for each month of September  
28 through August of the following year if he or she earns earnable  
29 compensation for eight hundred ten or more hours during that period and  
30 is employed during nine of those months, except that a member may not  
31 receive credit for any period prior to the member's employment in an  
32 eligible position except as provided in RCW 41.32.812 and 41.50.132;

33 (ii) If a member is employed either in an eligible position or as  
34 a substitute teacher for nine months of the twelve month period between  
35 September through August of the following year but earns earnable  
36 compensation for less than eight hundred ten hours but for at least six  
37 hundred thirty hours, he or she will receive one-half of a service  
38 credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37) (a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means(~~(, initially, fifty-nine)~~) one dollar

1 and forty-five cents per month per year of service which amount shall  
2 be increased each July 1st by three percent, rounded to the nearest  
3 cent.

4 (47) "Member account" or "member's account" for purposes of plan 3  
5 means the sum of the contributions and earnings on behalf of the member  
6 in the defined contribution portion of plan 3.

7 (48) "Separation from service or employment" occurs when a person  
8 has terminated all employment with an employer.

9 (49) "Employed" or "employee" means a person who is providing  
10 services for compensation to an employer, unless the person is free  
11 from the employer's direction and control over the performance of work.  
12 The department shall adopt rules and interpret this subsection  
13 consistent with common law.

14 **Sec. 2.** RCW 41.32.4851 and 2004 c 85 s 1 are each amended to read  
15 as follows:

16 (1) No one who becomes a beneficiary after June 30, 1995, shall  
17 receive a monthly retirement allowance of less than twenty-four dollars  
18 and twenty-two cents times the number of years of service creditable to  
19 the person whose service is the basis of such retirement allowance.

20 (2) If the retirement allowance payable was adjusted at the time  
21 benefit payments to the beneficiary commenced, the minimum allowance  
22 provided in this section shall be adjusted in a manner consistent with  
23 that adjustment.

24 (3) Beginning July 1, 1996, the minimum benefit set forth in  
25 subsection (1) of this section shall be adjusted annually by the annual  
26 increase.

27 (4) Those receiving a temporary disability benefit under RCW  
28 41.32.540 shall not be eligible for the benefit provided by this  
29 section.

30 (5) Beginning July 1, 2004, the minimum benefit set forth in  
31 subsection (1) of this section, prior to adjustments set forth in  
32 subsection (2) of this section, for a beneficiary with at least twenty-  
33 five years of service and who has been retired at least twenty years  
34 shall be one thousand dollars per month(~~(. The minimum benefit in this~~  
35 ~~subsection shall not be adjusted by the annual increase provided in~~  
36 ~~subsection (3) of this section))~~ which shall be increased each July 1st  
37 by three percent, rounded to the nearest cent.

1       (6) Beginning July 1, 2005, the minimum benefit set forth in  
2 subsection (1) of this section, prior to adjustments set forth in  
3 subsection (2) of this section, for a beneficiary with at least twenty  
4 years of service and who has been retired at least twenty-five years  
5 shall be one thousand dollars per month which shall be increased each  
6 July 1st by three percent, rounded to the nearest cent.

7       **Sec. 3.** RCW 41.32.489 and 1995 c 345 s 2 are each amended to read  
8 as follows:

9       (1) Beginning July 1, 1995, and annually thereafter, the retirement  
10 allowance of a person meeting the requirements of this section shall be  
11 increased by the annual increase amount.

12       (2) The following persons shall be eligible for the benefit  
13 provided in subsection (1) of this section:

14       (a) A beneficiary who has received a retirement allowance for at  
15 least one year by July 1st in the calendar year in which the annual  
16 increase is given and has attained at least age sixty-six by ((~~July~~  
17 ~~1st~~)) December 31st in the calendar year in which the annual increase  
18 is given; or

19       (b) A beneficiary whose retirement allowance is lower than the  
20 minimum benefit provided under RCW 41.32.4851.

21       (3) The following persons shall also be eligible for the benefit  
22 provided in subsection (1) of this section:

23       (a) A beneficiary receiving the minimum benefit on June 30, 1995,  
24 under RCW 41.32.485; or

25       (b) A recipient of a survivor benefit on June 30, 1995, which has  
26 been increased by RCW 41.32.575.

27       (4) If otherwise eligible, those receiving an annual adjustment  
28 under RCW 41.32.530(1)(d) shall be eligible for the annual increase  
29 adjustment in addition to the benefit that would have been received  
30 absent this section.

31       (5) Those receiving a temporary disability benefit under RCW  
32 41.32.540 shall not be eligible for the benefit provided by this  
33 section.

34       (6) The legislature reserves the right to amend or repeal this  
35 section in the future and no member or beneficiary has a contractual  
36 right to receive this postretirement adjustment not granted prior to  
37 that time.

1       **Sec. 4.** RCW 41.40.010 and 2003 c 412 s 4 are each amended to read  
2 as follows:

3       As used in this chapter, unless a different meaning is plainly  
4 required by the context:

5       (1) "Retirement system" means the public employees' retirement  
6 system provided for in this chapter.

7       (2) "Department" means the department of retirement systems created  
8 in chapter 41.50 RCW.

9       (3) "State treasurer" means the treasurer of the state of  
10 Washington.

11       (4)(a) "Employer" for plan 1 members, means every branch,  
12 department, agency, commission, board, and office of the state, any  
13 political subdivision or association of political subdivisions of the  
14 state admitted into the retirement system, and legal entities  
15 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
16 term shall also include any labor guild, association, or organization  
17 the membership of a local lodge or division of which is comprised of at  
18 least forty percent employees of an employer (other than such labor  
19 guild, association, or organization) within this chapter. The term may  
20 also include any city of the first class that has its own retirement  
21 system.

22       (b) "Employer" for plan 2 and plan 3 members, means every branch,  
23 department, agency, commission, board, and office of the state, and any  
24 political subdivision and municipal corporation of the state admitted  
25 into the retirement system, including public agencies created pursuant  
26 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August  
27 31, 2000, school districts and educational service districts will no  
28 longer be employers for the public employees' retirement system plan 2.

29       (5) "Member" means any employee included in the membership of the  
30 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045  
31 does not prohibit a person otherwise eligible for membership in the  
32 retirement system from establishing such membership effective when he  
33 or she first entered an eligible position.

34       (6) "Original member" of this retirement system means:

35       (a) Any person who became a member of the system prior to April 1,  
36 1949;

37       (b) Any person who becomes a member through the admission of an

1 employer into the retirement system on and after April 1, 1949, and  
2 prior to April 1, 1951;

3 (c) Any person who first becomes a member by securing employment  
4 with an employer prior to April 1, 1951, provided the member has  
5 rendered at least one or more years of service to any employer prior to  
6 October 1, 1947;

7 (d) Any person who first becomes a member through the admission of  
8 an employer into the retirement system on or after April 1, 1951,  
9 provided, such person has been in the regular employ of the employer  
10 for at least six months of the twelve-month period preceding the said  
11 admission date;

12 (e) Any member who has restored all contributions that may have  
13 been withdrawn as provided by RCW 41.40.150 and who on the effective  
14 date of the individual's retirement becomes entitled to be credited  
15 with ten years or more of membership service except that the provisions  
16 relating to the minimum amount of retirement allowance for the member  
17 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
18 apply to the member;

19 (f) Any member who has been a contributor under the system for two  
20 or more years and who has restored all contributions that may have been  
21 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
22 the individual's retirement has rendered five or more years of service  
23 for the state or any political subdivision prior to the time of the  
24 admission of the employer into the system; except that the provisions  
25 relating to the minimum amount of retirement allowance for the member  
26 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
27 apply to the member.

28 (7) "New member" means a person who becomes a member on or after  
29 April 1, 1949, except as otherwise provided in this section.

30 (8)(a) "Compensation earnable" for plan 1 members, means salaries  
31 or wages earned during a payroll period for personal services and where  
32 the compensation is not all paid in money, maintenance compensation  
33 shall be included upon the basis of the schedules established by the  
34 member's employer.

35 (i) "Compensation earnable" for plan 1 members also includes the  
36 following actual or imputed payments, which are not paid for personal  
37 services:



1 (A) Retroactive payments to an individual by an employer on  
2 reinstatement of the employee in a position, or payments by an employer  
3 to an individual in lieu of reinstatement in a position which are  
4 awarded or granted as the equivalent of the salary or wage which the  
5 individual would have earned during a payroll period shall be  
6 considered compensation earnable and the individual shall receive the  
7 equivalent service credit;

8 (B) If a leave of absence is taken by an individual for the purpose  
9 of serving in the state legislature, the salary which would have been  
10 received for the position from which the leave of absence was taken,  
11 shall be considered as compensation earnable if the employee's  
12 contribution is paid by the employee and the employer's contribution is  
13 paid by the employer or employee;

14 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
15 72.09.240;

16 (D) Compensation that a member would have received but for a  
17 disability occurring in the line of duty only as authorized by RCW  
18 41.40.038;

19 (E) Compensation that a member receives due to participation in the  
20 leave sharing program only as authorized by RCW 41.04.650 through  
21 41.04.670; and

22 (F) Compensation that a member receives for being in standby  
23 status. For the purposes of this section, a member is in standby  
24 status when not being paid for time actually worked and the employer  
25 requires the member to be prepared to report immediately for work, if  
26 the need arises, although the need may not arise.

27 (ii) "Compensation earnable" does not include:

28 (A) Remuneration for unused sick leave authorized under RCW  
29 41.04.340, 28A.400.210, or 28A.310.490;

30 (B) Remuneration for unused annual leave in excess of thirty days  
31 as authorized by RCW 43.01.044 and 43.01.041.

32 (b) "Compensation earnable" for plan 2 and plan 3 members, means  
33 salaries or wages earned by a member during a payroll period for  
34 personal services, including overtime payments, and shall include wages  
35 and salaries deferred under provisions established pursuant to sections  
36 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
37 shall exclude nonmoney maintenance compensation and lump sum or other

1 payments for deferred annual sick leave, unused accumulated vacation,  
2 unused accumulated annual leave, or any form of severance pay.

3 "Compensation earnable" for plan 2 and plan 3 members also includes  
4 the following actual or imputed payments, which are not paid for  
5 personal services:

6 (i) Retroactive payments to an individual by an employer on  
7 reinstatement of the employee in a position, or payments by an employer  
8 to an individual in lieu of reinstatement in a position which are  
9 awarded or granted as the equivalent of the salary or wage which the  
10 individual would have earned during a payroll period shall be  
11 considered compensation earnable to the extent provided above, and the  
12 individual shall receive the equivalent service credit;

13 (ii) In any year in which a member serves in the legislature, the  
14 member shall have the option of having such member's compensation  
15 earnable be the greater of:

16 (A) The compensation earnable the member would have received had  
17 such member not served in the legislature; or

18 (B) Such member's actual compensation earnable received for  
19 nonlegislative public employment and legislative service combined. Any  
20 additional contributions to the retirement system required because  
21 compensation earnable under (b)(ii)(A) of this subsection is greater  
22 than compensation earnable under (b)(ii)(B) of this subsection shall be  
23 paid by the member for both member and employer contributions;

24 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
25 and 72.09.240;

26 (iv) Compensation that a member would have received but for a  
27 disability occurring in the line of duty only as authorized by RCW  
28 41.40.038;

29 (v) Compensation that a member receives due to participation in the  
30 leave sharing program only as authorized by RCW 41.04.650 through  
31 41.04.670; and

32 (vi) Compensation that a member receives for being in standby  
33 status. For the purposes of this section, a member is in standby  
34 status when not being paid for time actually worked and the employer  
35 requires the member to be prepared to report immediately for work, if  
36 the need arises, although the need may not arise.

37 (9)(a) "Service" for plan 1 members, except as provided in RCW  
38 41.40.088, means periods of employment in an eligible position or

positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the Washington school employees' retirement system, teachers' retirement system, or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the Washington school employees' retirement system, teachers' retirement system, or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

1 (D) More than twenty-two days but less than thirty-three days  
2 equals one and one-quarter service credit month;

3 (E) Thirty-three or more days but less than forty-five days equals  
4 one and one-half service credit month.

5 (10) "Service credit year" means an accumulation of months of  
6 service credit which is equal to one when divided by twelve.

7 (11) "Service credit month" means a month or an accumulation of  
8 months of service credit which is equal to one.

9 (12) "Prior service" means all service of an original member  
10 rendered to any employer prior to October 1, 1947.

11 (13) "Membership service" means:

12 (a) All service rendered, as a member, after October 1, 1947;

13 (b) All service after October 1, 1947, to any employer prior to the  
14 time of its admission into the retirement system for which member and  
15 employer contributions, plus interest as required by RCW 41.50.125,  
16 have been paid under RCW 41.40.056 or 41.40.057;

17 (c) Service not to exceed six consecutive months of probationary  
18 service rendered after April 1, 1949, and prior to becoming a member,  
19 in the case of any member, upon payment in full by such member of the  
20 total amount of the employer's contribution to the retirement fund  
21 which would have been required under the law in effect when such  
22 probationary service was rendered if the member had been a member  
23 during such period, except that the amount of the employer's  
24 contribution shall be calculated by the director based on the first  
25 month's compensation earnable as a member;

26 (d) Service not to exceed six consecutive months of probationary  
27 service, rendered after October 1, 1947, and before April 1, 1949, and  
28 prior to becoming a member, in the case of any member, upon payment in  
29 full by such member of five percent of such member's salary during said  
30 period of probationary service, except that the amount of the  
31 employer's contribution shall be calculated by the director based on  
32 the first month's compensation earnable as a member.

33 (14)(a) "Beneficiary" for plan 1 members, means any person in  
34 receipt of a retirement allowance, pension or other benefit provided by  
35 this chapter.

36 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
37 in receipt of a retirement allowance or other benefit provided by this

chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(17)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

1 (24) "Retirement" means withdrawal from active service with a  
2 retirement allowance as provided by this chapter.

3 (25) "Eligible position" means:

4 (a) Any position that, as defined by the employer, normally  
5 requires five or more months of service a year for which regular  
6 compensation for at least seventy hours is earned by the occupant  
7 thereof. For purposes of this chapter an employer shall not define  
8 "position" in such a manner that an employee's monthly work for that  
9 employer is divided into more than one position;

10 (b) Any position occupied by an elected official or person  
11 appointed directly by the governor, or appointed by the chief justice  
12 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which  
13 compensation is paid.

14 (26) "Ineligible position" means any position which does not  
15 conform with the requirements set forth in subsection (25) of this  
16 section.

17 (27) "Leave of absence" means the period of time a member is  
18 authorized by the employer to be absent from service without being  
19 separated from membership.

20 (28) "Totally incapacitated for duty" means total inability to  
21 perform the duties of a member's employment or office or any other work  
22 for which the member is qualified by training or experience.

23 (29) "Retiree" means any person who has begun accruing a retirement  
24 allowance or other benefit provided by this chapter resulting from  
25 service rendered to an employer while a member.

26 (30) "Director" means the director of the department.

27 (31) "State elective position" means any position held by any  
28 person elected or appointed to statewide office or elected or appointed  
29 as a member of the legislature.

30 (32) "State actuary" or "actuary" means the person appointed  
31 pursuant to RCW 44.44.010(2).

32 (33) "Plan 1" means the public employees' retirement system, plan  
33 1 providing the benefits and funding provisions covering persons who  
34 first became members of the system prior to October 1, 1977.

35 (34) "Plan 2" means the public employees' retirement system, plan  
36 2 providing the benefits and funding provisions covering persons who  
37 first became members of the system on and after October 1, 1977, and  
38 are not included in plan 3.

(35) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(36) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(37) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(38) "Index B" means the index for the year prior to index A.

(39) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(40) "Adjustment ratio" means the value of index A divided by index B.

(41) "Annual increase" means(~~(, initially, fifty-nine)~~) one dollar and forty-five cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(42) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination.

(43) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

**Sec. 5.** RCW 41.40.010 and 2004 c 242 s 53 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:



1 (1) "Retirement system" means the public employees' retirement  
2 system provided for in this chapter.

3 (2) "Department" means the department of retirement systems created  
4 in chapter 41.50 RCW.

5 (3) "State treasurer" means the treasurer of the state of  
6 Washington.

7 (4)(a) "Employer" for plan 1 members, means every branch,  
8 department, agency, commission, board, and office of the state, any  
9 political subdivision or association of political subdivisions of the  
10 state admitted into the retirement system, and legal entities  
11 authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the  
12 term shall also include any labor guild, association, or organization  
13 the membership of a local lodge or division of which is comprised of at  
14 least forty percent employees of an employer (other than such labor  
15 guild, association, or organization) within this chapter. The term may  
16 also include any city of the first class that has its own retirement  
17 system.

18 (b) "Employer" for plan 2 and plan 3 members, means every branch,  
19 department, agency, commission, board, and office of the state, and any  
20 political subdivision and municipal corporation of the state admitted  
21 into the retirement system, including public agencies created pursuant  
22 to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August  
23 31, 2000, school districts and educational service districts will no  
24 longer be employers for the public employees' retirement system plan 2.

25 (5) "Member" means any employee included in the membership of the  
26 retirement system, as provided for in RCW 41.40.023. RCW 41.26.045  
27 does not prohibit a person otherwise eligible for membership in the  
28 retirement system from establishing such membership effective when he  
29 or she first entered an eligible position.

30 (6) "Original member" of this retirement system means:

31 (a) Any person who became a member of the system prior to April 1,  
32 1949;

33 (b) Any person who becomes a member through the admission of an  
34 employer into the retirement system on and after April 1, 1949, and  
35 prior to April 1, 1951;

36 (c) Any person who first becomes a member by securing employment  
37 with an employer prior to April 1, 1951, provided the member has

1 rendered at least one or more years of service to any employer prior to  
2 October 1, 1947;

3 (d) Any person who first becomes a member through the admission of  
4 an employer into the retirement system on or after April 1, 1951,  
5 provided, such person has been in the regular employ of the employer  
6 for at least six months of the twelve-month period preceding the said  
7 admission date;

8 (e) Any member who has restored all contributions that may have  
9 been withdrawn as provided by RCW 41.40.150 and who on the effective  
10 date of the individual's retirement becomes entitled to be credited  
11 with ten years or more of membership service except that the provisions  
12 relating to the minimum amount of retirement allowance for the member  
13 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
14 apply to the member;

15 (f) Any member who has been a contributor under the system for two  
16 or more years and who has restored all contributions that may have been  
17 withdrawn as provided by RCW 41.40.150 and who on the effective date of  
18 the individual's retirement has rendered five or more years of service  
19 for the state or any political subdivision prior to the time of the  
20 admission of the employer into the system; except that the provisions  
21 relating to the minimum amount of retirement allowance for the member  
22 upon retirement at age seventy as found in RCW 41.40.190(4) shall not  
23 apply to the member.

24 (7) "New member" means a person who becomes a member on or after  
25 April 1, 1949, except as otherwise provided in this section.

26 (8)(a) "Compensation earnable" for plan 1 members, means salaries  
27 or wages earned during a payroll period for personal services and where  
28 the compensation is not all paid in money, maintenance compensation  
29 shall be included upon the basis of the schedules established by the  
30 member's employer.

31 (i) "Compensation earnable" for plan 1 members also includes the  
32 following actual or imputed payments, which are not paid for personal  
33 services:

34 (A) Retroactive payments to an individual by an employer on  
35 reinstatement of the employee in a position, or payments by an employer  
36 to an individual in lieu of reinstatement in a position which are  
37 awarded or granted as the equivalent of the salary or wage which the

1 individual would have earned during a payroll period shall be  
2 considered compensation earnable and the individual shall receive the  
3 equivalent service credit;

4 (B) If a leave of absence is taken by an individual for the purpose  
5 of serving in the state legislature, the salary which would have been  
6 received for the position from which the leave of absence was taken,  
7 shall be considered as compensation earnable if the employee's  
8 contribution is paid by the employee and the employer's contribution is  
9 paid by the employer or employee;

10 (C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and  
11 72.09.240;

12 (D) Compensation that a member would have received but for a  
13 disability occurring in the line of duty only as authorized by RCW  
14 41.40.038;

15 (E) Compensation that a member receives due to participation in the  
16 leave sharing program only as authorized by RCW 41.04.650 through  
17 41.04.670; and

18 (F) Compensation that a member receives for being in standby  
19 status. For the purposes of this section, a member is in standby  
20 status when not being paid for time actually worked and the employer  
21 requires the member to be prepared to report immediately for work, if  
22 the need arises, although the need may not arise.

23 (ii) "Compensation earnable" does not include:

24 (A) Remuneration for unused sick leave authorized under RCW  
25 41.04.340, 28A.400.210, or 28A.310.490;

26 (B) Remuneration for unused annual leave in excess of thirty days  
27 as authorized by RCW 43.01.044 and 43.01.041.

28 (b) "Compensation earnable" for plan 2 and plan 3 members, means  
29 salaries or wages earned by a member during a payroll period for  
30 personal services, including overtime payments, and shall include wages  
31 and salaries deferred under provisions established pursuant to sections  
32 403(b), 414(h), and 457 of the United States Internal Revenue Code, but  
33 shall exclude nonmoney maintenance compensation and lump sum or other  
34 payments for deferred annual sick leave, unused accumulated vacation,  
35 unused accumulated annual leave, or any form of severance pay.

36 "Compensation earnable" for plan 2 and plan 3 members also includes  
37 the following actual or imputed payments, which are not paid for  
38 personal services:

1 (i) Retroactive payments to an individual by an employer on  
2 reinstatement of the employee in a position, or payments by an employer  
3 to an individual in lieu of reinstatement in a position which are  
4 awarded or granted as the equivalent of the salary or wage which the  
5 individual would have earned during a payroll period shall be  
6 considered compensation earnable to the extent provided above, and the  
7 individual shall receive the equivalent service credit;

8 (ii) In any year in which a member serves in the legislature, the  
9 member shall have the option of having such member's compensation  
10 earnable be the greater of:

11 (A) The compensation earnable the member would have received had  
12 such member not served in the legislature; or

13 (B) Such member's actual compensation earnable received for  
14 nonlegislative public employment and legislative service combined. Any  
15 additional contributions to the retirement system required because  
16 compensation earnable under (b)(ii)(A) of this subsection is greater  
17 than compensation earnable under (b)(ii)(B) of this subsection shall be  
18 paid by the member for both member and employer contributions;

19 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
20 and 72.09.240;

21 (iv) Compensation that a member would have received but for a  
22 disability occurring in the line of duty only as authorized by RCW  
23 41.40.038;

24 (v) Compensation that a member receives due to participation in the  
25 leave sharing program only as authorized by RCW 41.04.650 through  
26 41.04.670; and

27 (vi) Compensation that a member receives for being in standby  
28 status. For the purposes of this section, a member is in standby  
29 status when not being paid for time actually worked and the employer  
30 requires the member to be prepared to report immediately for work, if  
31 the need arises, although the need may not arise.

32 (9)(a) "Service" for plan 1 members, except as provided in RCW  
33 41.40.088, means periods of employment in an eligible position or  
34 positions for one or more employers rendered to any employer for which  
35 compensation is paid, and includes time spent in office as an elected  
36 or appointed official of an employer. Compensation earnable earned in  
37 full time work for seventy hours or more in any given calendar month  
38 shall constitute one service credit month except as provided in RCW

1 41.40.088. Compensation earnable earned for less than seventy hours in  
2 any calendar month shall constitute one-quarter service credit month of  
3 service except as provided in RCW 41.40.088. Only service credit  
4 months and one-quarter service credit months shall be counted in the  
5 computation of any retirement allowance or other benefit provided for  
6 in this chapter. Any fraction of a year of service shall be taken into  
7 account in the computation of such retirement allowance or benefits.  
8 Time spent in standby status, whether compensated or not, is not  
9 service.

10 (i) Service by a state employee officially assigned by the state on  
11 a temporary basis to assist another public agency, shall be considered  
12 as service as a state employee: PROVIDED, That service to any other  
13 public agency shall not be considered service as a state employee if  
14 such service has been used to establish benefits in any other public  
15 retirement system.

16 (ii) An individual shall receive no more than a total of twelve  
17 service credit months of service during any calendar year. If an  
18 individual is employed in an eligible position by one or more employers  
19 the individual shall receive no more than one service credit month  
20 during any calendar month in which multiple service for seventy or more  
21 hours is rendered.

22 (iii) A school district employee may count up to forty-five days of  
23 sick leave as creditable service solely for the purpose of determining  
24 eligibility to retire under RCW 41.40.180 as authorized by RCW  
25 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW  
26 28A.400.300 is equal to two service credit months. Use of less than  
27 forty-five days of sick leave is creditable as allowed under this  
28 subsection as follows:

29 (A) Less than twenty-two days equals one-quarter service credit  
30 month;

31 (B) Twenty-two days equals one service credit month;

32 (C) More than twenty-two days but less than forty-five days equals  
33 one and one-quarter service credit month.

34 (b) "Service" for plan 2 and plan 3 members, means periods of  
35 employment by a member in an eligible position or positions for one or  
36 more employers for which compensation earnable is paid. Compensation  
37 earnable earned for ninety or more hours in any calendar month shall  
38 constitute one service credit month except as provided in RCW

1 41.40.088. Compensation earnable earned for at least seventy hours but  
2 less than ninety hours in any calendar month shall constitute one-half  
3 service credit month of service. Compensation earnable earned for less  
4 than seventy hours in any calendar month shall constitute one-quarter  
5 service credit month of service. Time spent in standby status, whether  
6 compensated or not, is not service.

7 Any fraction of a year of service shall be taken into account in  
8 the computation of such retirement allowance or benefits.

9 (i) Service in any state elective position shall be deemed to be  
10 full time service, except that persons serving in state elective  
11 positions who are members of the Washington school employees'  
12 retirement system, teachers' retirement system, public safety  
13 employees' retirement system, or law enforcement officers' and fire  
14 fighters' retirement system at the time of election or appointment to  
15 such position may elect to continue membership in the Washington school  
16 employees' retirement system, teachers' retirement system, public  
17 safety employees' retirement system, or law enforcement officers' and  
18 fire fighters' retirement system.

19 (ii) A member shall receive a total of not more than twelve service  
20 credit months of service for such calendar year. If an individual is  
21 employed in an eligible position by one or more employers the  
22 individual shall receive no more than one service credit month during  
23 any calendar month in which multiple service for ninety or more hours  
24 is rendered.

25 (iii) Up to forty-five days of sick leave may be creditable as  
26 service solely for the purpose of determining eligibility to retire  
27 under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of  
28 plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal  
29 to two service credit months. Use of less than forty-five days of sick  
30 leave is creditable as allowed under this subsection as follows:

31 (A) Less than eleven days equals one-quarter service credit month;

32 (B) Eleven or more days but less than twenty-two days equals one-  
33 half service credit month;

34 (C) Twenty-two days equals one service credit month;

35 (D) More than twenty-two days but less than thirty-three days  
36 equals one and one-quarter service credit month;

37 (E) Thirty-three or more days but less than forty-five days equals  
38 one and one-half service credit month.

1 (10) "Service credit year" means an accumulation of months of  
2 service credit which is equal to one when divided by twelve.

3 (11) "Service credit month" means a month or an accumulation of  
4 months of service credit which is equal to one.

5 (12) "Prior service" means all service of an original member  
6 rendered to any employer prior to October 1, 1947.

7 (13) "Membership service" means:

8 (a) All service rendered, as a member, after October 1, 1947;

9 (b) All service after October 1, 1947, to any employer prior to the  
10 time of its admission into the retirement system for which member and  
11 employer contributions, plus interest as required by RCW 41.50.125,  
12 have been paid under RCW 41.40.056 or 41.40.057;

13 (c) Service not to exceed six consecutive months of probationary  
14 service rendered after April 1, 1949, and prior to becoming a member,  
15 in the case of any member, upon payment in full by such member of the  
16 total amount of the employer's contribution to the retirement fund  
17 which would have been required under the law in effect when such  
18 probationary service was rendered if the member had been a member  
19 during such period, except that the amount of the employer's  
20 contribution shall be calculated by the director based on the first  
21 month's compensation earnable as a member;

22 (d) Service not to exceed six consecutive months of probationary  
23 service, rendered after October 1, 1947, and before April 1, 1949, and  
24 prior to becoming a member, in the case of any member, upon payment in  
25 full by such member of five percent of such member's salary during said  
26 period of probationary service, except that the amount of the  
27 employer's contribution shall be calculated by the director based on  
28 the first month's compensation earnable as a member.

29 (14)(a) "Beneficiary" for plan 1 members, means any person in  
30 receipt of a retirement allowance, pension or other benefit provided by  
31 this chapter.

32 (b) "Beneficiary" for plan 2 and plan 3 members, means any person  
33 in receipt of a retirement allowance or other benefit provided by this  
34 chapter resulting from service rendered to an employer by another  
35 person.

36 (15) "Regular interest" means such rate as the director may  
37 determine.

1       (16) "Accumulated contributions" means the sum of all contributions  
2 standing to the credit of a member in the member's individual account,  
3 including any amount paid under RCW 41.50.165(2), together with the  
4 regular interest thereon.

5       (17)(a) "Average final compensation" for plan 1 members, means the  
6 annual average of the greatest compensation earnable by a member during  
7 any consecutive two year period of service credit months for which  
8 service credit is allowed; or if the member has less than two years of  
9 service credit months then the annual average compensation earnable  
10 during the total years of service for which service credit is allowed.

11       (b) "Average final compensation" for plan 2 and plan 3 members,  
12 means the member's average compensation earnable of the highest  
13 consecutive sixty months of service credit months prior to such  
14 member's retirement, termination, or death. Periods constituting  
15 authorized leaves of absence may not be used in the calculation of  
16 average final compensation except under RCW 41.40.710(2).

17       (18) "Final compensation" means the annual rate of compensation  
18 earnable by a member at the time of termination of employment.

19       (19) "Annuity" means payments for life derived from accumulated  
20 contributions of a member. All annuities shall be paid in monthly  
21 installments.

22       (20) "Pension" means payments for life derived from contributions  
23 made by the employer. All pensions shall be paid in monthly  
24 installments.

25       (21) "Retirement allowance" means the sum of the annuity and the  
26 pension.

27       (22) "Employee" or "employed" means a person who is providing  
28 services for compensation to an employer, unless the person is free  
29 from the employer's direction and control over the performance of work.  
30 The department shall adopt rules and interpret this subsection  
31 consistent with common law.

32       (23) "Actuarial equivalent" means a benefit of equal value when  
33 computed upon the basis of such mortality and other tables as may be  
34 adopted by the director.

35       (24) "Retirement" means withdrawal from active service with a  
36 retirement allowance as provided by this chapter.

37       (25) "Eligible position" means:



1 (a) Any position that, as defined by the employer, normally  
2 requires five or more months of service a year for which regular  
3 compensation for at least seventy hours is earned by the occupant  
4 thereof. For purposes of this chapter an employer shall not define  
5 "position" in such a manner that an employee's monthly work for that  
6 employer is divided into more than one position;

7 (b) Any position occupied by an elected official or person  
8 appointed directly by the governor, or appointed by the chief justice  
9 of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which  
10 compensation is paid.

11 (26) "Ineligible position" means any position which does not  
12 conform with the requirements set forth in subsection (25) of this  
13 section.

14 (27) "Leave of absence" means the period of time a member is  
15 authorized by the employer to be absent from service without being  
16 separated from membership.

17 (28) "Totally incapacitated for duty" means total inability to  
18 perform the duties of a member's employment or office or any other work  
19 for which the member is qualified by training or experience.

20 (29) "Retiree" means any person who has begun accruing a retirement  
21 allowance or other benefit provided by this chapter resulting from  
22 service rendered to an employer while a member.

23 (30) "Director" means the director of the department.

24 (31) "State elective position" means any position held by any  
25 person elected or appointed to statewide office or elected or appointed  
26 as a member of the legislature.

27 (32) "State actuary" or "actuary" means the person appointed  
28 pursuant to RCW 44.44.010(2).

29 (33) "Plan 1" means the public employees' retirement system, plan  
30 1 providing the benefits and funding provisions covering persons who  
31 first became members of the system prior to October 1, 1977.

32 (34) "Plan 2" means the public employees' retirement system, plan  
33 2 providing the benefits and funding provisions covering persons who  
34 first became members of the system on and after October 1, 1977, and  
35 are not included in plan 3.

36 (35) "Plan 3" means the public employees' retirement system, plan  
37 3 providing the benefits and funding provisions covering persons who:

38 (a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(36) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(37) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(38) "Index B" means the index for the year prior to index A.

(39) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(40) "Adjustment ratio" means the value of index A divided by index B.

(41) "Annual increase" means(~~(, initially, fifty-nine)~~) one dollar and forty-five cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(42) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination.

(43) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

**Sec. 6.** RCW 41.40.197 and 1995 c 345 s 5 are each amended to read as follows:

(1) Beginning July 1, 1995, and annually thereafter, the retirement allowance of a person meeting the requirements of this section shall be increased by the annual increase amount.

(2) The following persons shall be eligible for the benefit provided in subsection (1) of this section:

1 (a) A beneficiary who has received a retirement allowance for at  
2 least one year by July 1st in the calendar year in which the annual  
3 increase is given and has attained at least age sixty-six by ((July  
4 1st)) December 31st in the calendar year in which the annual increase  
5 is given; or

6 (b) A beneficiary whose retirement allowance is lower than the  
7 minimum benefit provided under RCW 41.40.1984.

8 (3) The following persons shall also be eligible for the benefit  
9 provided in subsection (1) of this section:

10 (a) A beneficiary receiving the minimum benefit on June 30, 1995,  
11 under RCW 41.40.198; or

12 (b) A recipient of a survivor benefit on June 30, 1995, which has  
13 been increased by RCW 41.40.325.

14 (4) If otherwise eligible, those receiving an annual adjustment  
15 under RCW 41.40.188(1)(c) shall be eligible for the annual increase  
16 adjustment in addition to the benefit that would have been received  
17 absent this section.

18 (5) Those receiving a benefit under RCW 41.40.220(1), or a survivor  
19 of a disabled member under RCW 41.44.170(5) shall be eligible for the  
20 benefit provided by this section.

21 (6) The legislature reserves the right to amend or repeal this  
22 section in the future and no member or beneficiary has a contractual  
23 right to receive this postretirement adjustment not granted prior to  
24 that time.

25 **Sec. 7.** RCW 41.40.1984 and 2004 c 85 s 2 are each amended to read  
26 as follows:

27 (1) Except as provided in subsections (4) and (5) of this section,  
28 no one who becomes a beneficiary after June 30, 1995, shall receive a  
29 monthly retirement allowance of less than twenty-four dollars and  
30 twenty-two cents times the number of years of service creditable to the  
31 person whose service is the basis of such retirement allowance.

32 (2) Where the retirement allowance payable was adjusted at the time  
33 benefit payments to the beneficiary commenced, the minimum allowance  
34 provided in this section shall be adjusted in a manner consistent with  
35 that adjustment.

36 (3) Beginning July 1, 1996, the minimum benefit set forth in

subsection (1) of this section shall be adjusted annually by the annual increase.

(4) Those receiving a benefit under RCW 41.40.220(1) or under RCW 41.44.170 (3) and (5) shall not be eligible for the benefit provided by this section.

(5) For persons who served as elected officials and whose accumulated employee contributions and credited interest was less than seven hundred fifty dollars at the time of retirement, the minimum benefit under subsection (1) of this section shall be ten dollars per month per each year of creditable service.

(6) Beginning July 1, 2004, the minimum benefit set forth in subsection (1) of this section, prior to adjustments set forth in subsection (2) of this section, for a beneficiary with at least twenty-five years of service and who has been retired at least twenty years shall be one thousand dollars per month(~~(. The minimum benefit in this subsection shall not be adjusted by the annual increase provided in subsection (3) of this section)~~) which shall be increased each July 1st by three percent, rounded to the nearest cent.

(7) Beginning July 1, 2005, the minimum benefit set forth in subsection (1) of this section, prior to adjustments set forth in subsection (2) of this section, for a beneficiary with at least twenty years of service and who has been retired at least twenty-five years shall be one thousand dollars per month which shall be increased each July 1st by three percent, rounded to the nearest cent.

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 41.31.010 (Annual pension increases--Increased by gain-sharing increase amount) and 1998 c 340 s 1;

(2) RCW 41.31.020 (Gain-sharing increase amount calculated) and 1998 c 340 s 2; and

(3) RCW 41.31.030 (Contractual right to increase not granted) and 1998 c 340 s 3.

NEW SECTION. **Sec. 9.** Sections 1 through 4 and 6 through 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

1        NEW SECTION.   **Sec. 10.**   Section 4 of this act expires July 1, 2006.

2        NEW SECTION.   **Sec. 11.**   Section 5 of this act takes effect July 1,  
3   2006.

--- END ---

# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/01/2004	Z-0235.1/Z-0246.1

## SUMMARY OF BILL:

This bill impacts the Public Employee's Retirement System plan 1 (PERS 1) and the Teachers Retirement System plan 1 (TRS 1) by:

- Enhancing the annual increase amount by 20 cents. This would raise the July 1, 2005 amount from \$1.25 to \$1.45.
- Establishing a \$1,000 alternative minimum benefit for members with 20 years of service who have been retired 25 years.
- Establishing a 3% annual escalator for both \$1,000 alternative minimum benefit provisions.
- Amending Uniform COLA eligibility requirements to include all retirees who have been retired one year and will have attained age 66 by December 31st of the calendar year in which the increase is given.
- Repealing plan 1 gain-sharing.

Effective Date: Immediately upon passage

## CURRENT SITUATION:

The Annual Increase Amount is multiplied by each retirees' months of service to determine the annual uniform increase retirees receive when they are COLA eligible. The most recent Annual Increase Amount was \$1.21. The Annual Increase Amount increases each year by at least 3 percent. Gain-sharing is also used to boost the Annual Increase Amount; 38 cents of the current amount is a result of gain-sharing. The Annual Increase Amount is scheduled to increase to \$1.25 on July 1, 2005.

The current \$1,000 alternative minimum benefit was established in 2004. PERS 1 and TRS 1 members with 25 years of service who have been retired 20 years are eligible for this benefit. The benefit has no automatic escalator and, as a result, will effectively cease in 2010 when the original minimum benefit, which increases each year by the Annual Increase Amount, will produce a benefit greater than \$1,000 for a retired member with 25 years of service.

The current Uniform COLA provisions require PERS 1 and TRS 1 members to have been retired one year and to be at least age 66 on July 1st to be eligible for the adjustment paid on July 1st.

Gain sharing in PERS 1 and TRS 1 occurs on even-numbered years. An extraordinary investment gain

occurs when the average rate of return on assets for the previous 4-year period exceeds 10%. When this gain occurs, one-half of the gain for PERS 1 and TRS 1 is used to fund a permanent increase in the PERS 1 and TRS 1 Uniform COLA for current and future retirees.

#### **MEMBERS IMPACTED:**

The 20 cent COLA and the repeal of Plan 1 gain sharing will impact all 77,254 members of PERS 1 and all 46,677 members of TRS 1. The new eligibility requirements for the \$1,000 minimum will impact 694 PERS 1 members and 461 TRS 1 members, and indexing the \$1,000 will impact an additional 391 PERS 1 members and 338 TRS 1 members. The age 66 COLA will impact half the members in PERS 1 and TRS 1 under age 65.

<b>TRS Plan 1</b>	<b>Under Age 65</b>	<b>Total</b>
Receiving a Benefit	11,776	33,855
Actives	10,996	11,175
Terminated & Vested	1,619	1,647

<b>PERS Plan 1</b>	<b>Under Age 65</b>	<b>Total</b>
Receiving a Benefit	13,029	54,372
Actives	19,029	19,740
Terminated & Vested	3,034	3,142

For a typical member impacted by this bill, the uncertain and irregular adjustment to the Annual Increase Amount provided by gain sharing is exchanged for a definitely determinable increase. Instead of providing adjustments to the Annual Increase Amount with gain sharing, the Annual Increase Amount would be permanently increased by 20 cents. A retiree with 25 years of service would get an increase of \$5 per month.

#### **ASSUMPTIONS:**

We assumed that employer contribution rates would decrease after the proposed repeal of Plan 1 gain sharing because we started with rates that included the cost of future gain-sharing benefits. The cost impact was developed using the same logic as used for the valuation (rates were determined assuming a delayed effective date).

#### **FISCAL IMPACT:**

##### **Description:**

The decrease in contribution rates from the proposed repeal of future gain sharing is partially offset by the increase due to the proposed benefit improvements.

## Actuarial Determinations:

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>		<b>Current</b>	<b>Increase</b>	<b>Total</b>
<b>Actuarial Present Value of Projected Benefits</b>	PERS 1	\$13,219	\$(237)	\$12,982
(The Value of the Total Commitment to all Current Members)	TRS 1	10,767	(219)	10,548
<b>Unfunded Actuarial Accrued Liability</b>	PERS 1	\$2,620	\$(237)	\$2,383
(The Portion of the Plan 1 Liability that is Amortized at 2024)	TRS 1	1,416	(219)	1,197
<b>Unfunded Liability (PBO)</b>	PERS 1	\$2,204	\$(202)	\$2,002
(The Value of the Total Commitment to all Current Members Attributable to Past Service)	TRS 1	1,121	(195)	926

## Increase in Contribution Rates:

	PERS 1	TRS 1
<b>Employee</b>	0.00%	0.00%
<b>Employer State:</b>		
(Effective 7/1/2005):	(0.40%)	(0.84%)
Repeal Gain Sharing		
(Effective 9/1/2005):		
\$0.20 Uniform COLA Increase	0.18%	0.37%
\$1000 Minimum Benefit Enhancement	0.01%	0.01%
Age 66 Uniform COLA Improvement	<u>0.03%</u>	<u>0.04%</u>
Total Benefit Improvements	0.22%	0.42%
<b>Net Employer State:</b>	(0.18%)	(0.42%)



## Fiscal Budget Determinations (Repeal Gain Sharing only):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>	<b>Total</b>
<b>2005-2007</b>				
<b>State:</b>				
General Fund	\$(12.9)	\$(57.8)	\$(6.5)	\$(77.2)
Non-General Fund	<u>(21.2)</u>	<u>0.0</u>	<u>0.0</u>	<u>(21.2)</u>
<b>Total State</b>	<b>\$(34.1)</b>	<b>\$(57.8)</b>	<b>\$(6.5)</b>	<b>\$(98.4)</b>
Local Government	\$(30.3)	\$(11.8)	\$(5.7)	\$(47.8)
Total Employer	\$(64.4)	\$(69.6)	\$(12.2)	\$(146.2)
 Total Employee	 \$0.0	 \$0.0	 \$0.0	 \$0.0
<b>2007-2009</b>				
<b>State:</b>				
General Fund	\$(14.4)	\$(64.3)	\$(7.2)	\$(85.9)
Non-General Fund	<u>(23.8)</u>	<u>0.0</u>	<u>0.0</u>	<u>(23.8)</u>
<b>Total State</b>	<b>\$(38.2)</b>	<b>\$(64.3)</b>	<b>\$(7.2)</b>	<b>\$(109.7)</b>
Local Government	\$(33.9)	\$(13.2)	\$(6.4)	\$(53.5)
Total Employer	\$(72.1)	\$(77.5)	\$(13.6)	\$(163.2)
 Total Employee	 \$0.0	 \$0.0	 \$0.0	 \$0.0
<b>2005-2030</b>				
<b>State:</b>				
General Fund	\$(207.1)	\$(898.6)	\$(103.9)	\$(1,209.6)
Non-General Fund	<u>(341.8)</u>	<u>0.0</u>	<u>0.0</u>	<u>(341.8)</u>
<b>Total State</b>	<b>\$(548.9)</b>	<b>\$(898.6)</b>	<b>\$(103.9)</b>	<b>\$(1,551.4)</b>
Local Government	\$(486.8)	\$(184.0)	\$(92.1)	\$(762.9)
Total Employer	\$(1,035.7)	\$(1,082.6)	\$(196.0)	\$(2,314.3)
 Total Employee	 \$0.0	 \$0.0	 \$0.0	 \$0.0

## Fiscal Budget Determinations (Benefit improvements only):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>	<b>Total</b>
<b>2005-2007</b>				
<b>State:</b>				
General Fund	\$6.5	\$28.9	\$3.3	\$38.7
Non-General Fund	<u>10.7</u>	<u>0.0</u>	<u>0.0</u>	<u>10.7</u>
<b>Total State</b>	<b>\$17.2</b>	<b>\$28.9</b>	<b>\$3.3</b>	<b>\$49.4</b>
Local Government	\$15.3	\$5.9	\$2.9	\$24.1
Total Employer	\$32.5	\$34.8	\$6.2	\$73.5
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
<b>2007-2009</b>				
<b>State:</b>				
General Fund	\$7.9	\$32.2	\$4.0	\$44.1
Non-General Fund	<u>13.1</u>	<u>0.0</u>	<u>0.0</u>	<u>13.1</u>
<b>Total State</b>	<b>\$21.0</b>	<b>\$32.2</b>	<b>\$4.0</b>	<b>\$57.2</b>
Local Government	\$18.6	\$6.6	\$3.5	\$28.7
Total Employer	\$39.6	\$38.8	\$7.5	\$85.9
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0
<b>2005-2030</b>				
<b>State:</b>				
General Fund	\$113.3	\$449.2	\$56.9	\$619.4
Non-General Fund	<u>187.0</u>	<u>0.0</u>	<u>0.0</u>	<u>187.0</u>
<b>Total State</b>	<b>\$300.3</b>	<b>\$449.2</b>	<b>\$56.9</b>	<b>\$806.4</b>
Local Government	\$266.4	\$92.0	\$50.4	\$408.8
Total Employer	\$566.7	\$541.2	\$107.3	\$1,215.2
Total Employee	\$0.0	\$0.0	\$0.0	\$0.0

## Fiscal Budget Determinations (All Changes):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>	<b>Total</b>
<b>2005-2007</b>				
<b>State:</b>				
General Fund	\$(6.4)	\$(28.9)	\$(3.2)	\$(38.5)
Non-General Fund	<u>(10.5)</u>	<u>0.0</u>	<u>0.0</u>	<u>(10.5)</u>
<b>Total State</b>	<b>\$(16.9)</b>	<b>\$(28.9)</b>	<b>\$(3.2)</b>	<b>\$(49.0)</b>
Local Government	\$(15.0)	\$(5.9)	\$(2.8)	\$(23.7)
Total Employer	\$(31.9)	\$(34.8)	\$(6.0)	\$(72.7)
 Total Employee	 \$0.0	 \$0.0	 \$0.0	 \$0.0
<b>2007-2009</b>				
<b>State:</b>				
General Fund	\$(6.5)	\$(32.1)	\$(3.2)	\$(41.8)
Non-General Fund	<u>(10.7)</u>	<u>0.0</u>	<u>0.0</u>	<u>(10.7)</u>
<b>Total State</b>	<b>\$(17.2)</b>	<b>\$(32.1)</b>	<b>\$(3.2)</b>	<b>\$(52.5)</b>
Local Government	\$(15.3)	\$(6.6)	\$(2.9)	\$(24.8)
Total Employer	\$(32.5)	\$(38.7)	\$(6.1)	\$(77.3)
 Total Employee	 \$0.0	 \$0.0	 \$0.0	 \$0.0
<b>2005-2030</b>				
<b>State:</b>				
General Fund	\$(93.8)	\$(449.4)	\$(47.0)	\$(590.2)
Non-General Fund	<u>(154.8)</u>	<u>0.0</u>	<u>0.0</u>	<u>(154.8)</u>
<b>Total State</b>	<b>\$(248.6)</b>	<b>\$(449.4)</b>	<b>\$(47.0)</b>	<b>\$(745.0)</b>
Local Government	\$(220.4)	\$(92.0)	\$(41.7)	\$(354.1)
Total Employer	\$(469.0)	\$(541.4)	\$(88.7)	\$(1,099.1)
 Total Employee	 \$0.0	 \$0.0	 \$0.0	 \$0.0

## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Public Employees Retirement System and the Teachers' Retirement System, except for the cost of the \$1,000 minimum benefit, which was based on data from the September 30, 2002 actuarial valuation report.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:
4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.

## GLOSSARY OF ACTUARIAL TERMS:

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Projected Benefits:** Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Unfunded Actuarial Accrued Liability (UAAL):** The cost of Plan 1 is divided into two pieces:

- The Normal Cost portion is paid over the working lifetime of the Plan 1 active members. The remaining cost is called the UAAL.
- The UAAL is paid for by employers as a percent of the salaries of all plan 1, 2 and 3 members until the year 2024.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

# **Plan 3 Gain-Sharing**

Laura Harper  
Senior Research Analyst/Legal

Select Committee on Pension Policy  
December 7, 2004

## **Process**

- Full briefing on gain-sharing in August.
- Issue included within Purchasing Power subgroup.
- Proposal was developed since last SSCP meeting.

## **Elements of Proposal**

- Eliminate current Plan 3 Gain-Sharing provisions.
- Remove annual window for Plan 3 member contribution rate changes.
- Effective date of July 1, 2007.

## **Elements of Proposal, cont'd.**

- Add a modified rule of 90 for the Plans 2/3.
- Create plan 2/3 choice for new members of TRS and SERS.
- Make an annual contribution in to the Plan 3 accounts of existing SERS members.



## **Modified Rule of 90**

All members qualify for retirement if any combination of age and service = 90.

Two limitations:

- Minimum age of 60.
- Unreduced retirement benefits for prospective service only.

## **Example, Modified Rule of 90**

- Age 60, 15 years service before 7/1/07, 15 years after 7/1/07 ( $60+30=90$ ).
- 3% reduction for retiring 5 years early applies to  $\frac{1}{2}$  the of the pension benefit (benefit is reduced by  $\frac{1}{2}$  of 15%, or 7.5%).
- For new hires, no benefit reductions.

## **Plan 2/3 Choice**

- This element would be added for TRS and SERS.
- Uses same elements as for PERS.
- 90 day window for irrevocable choice.
- If no timely choice, default to Plan 3.

## **Plan 3 Member Rate Flexibility**

- Tax counsel has concerns about too much choice in the Plans 3.
- This provision has not been approved by the IRS for PERS or SERS.
- Subgroup recommends eliminating this plan provision altogether.

## **SERS 3 Contribution**

- Uniform \$10 increased by 3% per year multiplied by years of service credit.
- Helps balance the tradeoff for this plan and applies only to existing members (not new hires).
- Only remnant of Plan 3 gain-sharing.

## **Policy Implications**

- What are the tradeoffs?
  - Non-contractual for contractual
  - Uncertain (amount and frequency) for certain
- What are the tradeoff values?
  - 42% of expected long-term employer liability of gain-sharing (50% target)
  - SERS at target, PERS high, TRS low

# Select Committee on Pension Policy

## Plan 3 Gain-Sharing

(December 6, 2004)

---

### Issue

The issue before the SCPP is whether to recommend legislation that would amend and replace Plan 3 gain-sharing, and remove the annual window for Plan 3 member contribution rate changes, replacing them with the following:

- a modified “rule of 90” for vested members of the Plans 2/3 with prospective unreduced retirement benefits and a minimum age of 60;
- Plan 2/3 choice for new members of TRS and SERS (using the same terms as currently exist for PERS); and
- an annual employer contribution into the existing Plan 3 member accounts in SERS.

### Staff

Laura Harper, Senior Research Analyst/Legal  
360-586-7616

### Subgroup Recommendation

At its meeting on November 9, 2004, the Purchasing Power/Gain-Sharing subgroup of the SCPP instructed the OSA staff to develop a proposal that would be brought to the December SCPP meeting. The proposal would involve a “tradeoff” of certain benefits that would replace Plan 3 gain-sharing benefits. Suggested components for the Plan 3 tradeoff included a rule of 90, five-year vesting for the Plans 3 and direct deposits into plan 3 member accounts. The target cost for the tradeoff package was to approximate half of the forecasted cost of future gain-sharing. No consensus was reached in the subgroup and staff was not given specific direction as to the elements of the tradeoff package.

Several draft proposals were outlined by staff for consideration by the subgroup. Staff provided a handout describing the draft proposals on November 11, 2004, and after additional feedback from several subgroup

members, staff refined the package to include the three elements described above: modified rule of 90, Plan 2/3 choice and SERS 3 contributions.

On December 1, 2004, several subgroup members (Fromhold, Charles and Parr) met to consider the evaluation of two elements of the tradeoff package by tax counsel for DRS (Plan 2/3 choice and SERS 3 contributions). As the result of that meeting, it was determined that further negotiations were necessary among the affected member groups before a final proposal could come before the SCPP. On the afternoon of December 1, 2004, the OSA was given direction by Representative Fromhold (for the subgroup) to add a repeal of the annual member contribution rate flexibility in the Plans 3 in order to avoid problems with the IRS around the issue of Plan 2/3 choice.

The Executive Committee has not yet heard this proposal. This agenda item is to be considered by the Executive Committee prior to the full SCPP meeting on December 7, 2004.

### **Members Impacted**

This proposal would impact the active, retired and terminated and vested ("term-vested") members of the TRS, SERS and PERS Plans 2/3. As of September 30, 2003, there were 277,618 members among these three categories (all systems combined). For detailed information regarding members impacted, see the draft fiscal note which is provided as a handout for the December 7, 2004 meeting.

### **Current Situation**

#### ***Retirement Eligibility***

Currently, with respect to normal retirement, Plan 2/3 members of TRS, SERS and PERS are eligible to retire with unreduced benefits when they are vested and reach age 65. The vesting period for the Plans 2 is five years. The vesting period for the defined benefit component of the Plans 3 is ten years, or 5 years if 12 months of service were accrued after attaining age 54. (Plan 3 members are immediately vested in the defined contribution portion of their benefit.)

#### ***Plan 2/3 Choice***

Currently, of the three systems, PERS is the only one that has Plan 2/3 choice. New PERS employees have a period of ninety days to make an irrevocable choice to become a member of Plan 2 or Plan 3. At the end of ninety days, if a member has not made a choice to become a member of Plan 2, he or she automatically becomes a member of Plan 3. In TRS and SERS, new employees automatically become members of Plan 3, and the Plans 2 are closed to new hires.

### ***Plan 3 Gain-Sharing***

Gain-sharing is a mechanism that increases benefits. The increases are not automatic, but are contingent on the occurrence of "extraordinary investment gains." Extraordinary gains occur when the compound average of investment returns on pension fund assets exceeds 10% for the previous four state fiscal years. When this occurs, a calculation is performed to determine a dollar amount that will be distributed to eligible members. Gain-sharing calculations are currently made once each biennium with potential distributions occurring in January of even-numbered years. In the Plans 3 of PERS, SERS and TRS, active, retired and term-vested members receive distributions as lump sum dollar amounts deposited directly into their defined contribution accounts based on years of service credit. There have been two gain-sharing distributions since the inception of gain-sharing: one in 1998 and one in 2000.

### ***Plan 3 Member Rate Flexibility***

A current provision in the defined contribution portion of the hybrid Plans 3 allows members to change their contribution rate option annually by notifying their employer in writing during the month of January. This contribution rate flexibility has been implemented for TRS but has never been implemented for PERS and SERS because of its questionable status with the IRS. DRS has asked for IRS approval of this provision, but review has been pending for 2.5 years and no answer has been given.

## **Proposal**

### ***Modified Rule of 90 for Retirement Eligibility***

With respect to retirement eligibility, the proposal would institute a modified "rule of 90" for vested members that uses an age 60 minimum, and that has unreduced benefits for prospective service only in TRS 2/3, SERS 2/3 and

PERS 2/3. This modified rule of 90 means that a vested member who is at least 60 years old can retire when the sum of the member's age and the member's service credit years totals ninety or more. "Unreduced retirement for prospective service only" means that service credit accrued prior to the effective date of the bill, i.e. July 1, 2007, would be subject to any required reductions for early retirement. The portion of the benefit that is based on service credit accrued after July 1, 2007 would be unreduced. An example of the modified rule of 90 follows:

Example, Modified Rule of 90

Consider a Plan 2 member who is 60 years old and who earned the first half of his or her 30 years of service credit before July 1, 2007 and the second half of their service credit years after July 1, 2007. The member meets the minimum requirements for the rule of 90 because the member is vested, is at least 60 years old, and the sum of the member's age and the member's service credit years (60+30) equals 90.

Because the rule of 90 provides unreduced retirement benefits on a prospective basis only, then one-half of the member's benefit is unreduced (for the fifteen service credit years earned after July 1, 2007), and one-half is subject to the required reductions for early retirement (the fifteen service credit years earned before July 1, 2007). Generally, the applicable benefit reduction for retiring 5 years earlier than the Plan 2 normal retirement age of 65 with at least 30 years of service is 3% per year as provided in the alternate early retirement provisions of the Plans 2. This means that the member's benefit would be reduced by 15% (3% x 5 years) for retiring at age 60. Under the modified rule of 90, only one-half of the benefit would be subject to that reduction (i.e. that half that was earned prior to the effective date of the rule of 90). One-half of 15% is 7.5%, so the total reduction of the benefit would be 7.5%.

Assuming an monthly retirement benefit of \$1,000 (before reductions), the member that retires at age 60 without rule of 90 is subject to a 15% reduction, giving the member a monthly benefit of \$850. With the modified rule of 90, the member's benefit is reduced by 7.5% (which is one-half of 15%), giving the member a monthly benefit of \$925. For those hired after July 1, 2007, there will be no benefit reductions for retiring under the rule of 90.

**Summary of Example - Modified Rule of 90:**

	<b>Percent Reduction</b>	<b>Monthly Benefit</b>
Benefit Before Reductions	0 %	\$1,000
Benefit Without Rule of 90	15%	\$ 850
Benefit With Rule of 90	7.5%	\$ 925

***Plan 2/3 Choice***

As another element of the tradeoff proposal, Plan 2/3 choice would be added for TRS and SERS members hired on or after July 1, 2007 (using the same structure for choice as is currently in PERS). New hires would have a ninety-day window to make an irrevocable choice to become a member of Plan 2 or 3. At the end of ninety days, if the member has not made a choice to become a member of Plan 2, he or she would automatically become a member of Plan 3.

Tax counsel for DRS has expressed concern over multiple elections (or choices) by members in the Plans 2/3, as the IRS does not allow a high degree of choice or member flexibility in 401(a) plans. Washington's Plans 3 fall within this category, as they are 401(a) defined benefit plans with a defined contribution component. DRS was advised of possible problems with the provision allowing annual member contribution rate flexibility if the Plan 2/3 choice provision was added for all plans.

***Plan 3 Member Rate Flexibility***

After considering the tax advice, and in order to retain the Plan 2/3 choice element within the tradeoff proposal, the subgroup recommended removing the provision for annual member contribution rate flexibility in the Plans 3. This latter provision, found in RCW 41.34.040(4), allows members to change their contribution rate option annually by notifying their employer in writing during the month of January. It should be noted that annual contribution rate flexibility has never been implemented for PERS and SERS because of its questionable status with the IRS.

***Plan 3 Gain-Sharing***

As the final element of the tradeoff, this proposal would eliminate Plan 3 gain-sharing for TRS and PERS, and retain an amended version of Plan 3 gain-sharing for existing SERS members. The SERS 3 provision was included



because SERS 3 members get the least benefit of the three systems from a Rule of 90, and the provision would help provide more balance in the gain-sharing trade-off for all plan 3 members. Existing SERS 3 members (not new hires) would receive a uniform annual contribution of \$10 to their defined contribution accounts that is increased by three percent (3%) per year rounded to the nearest cent, which is then multiplied by service credit years. Thus, the benefit increases for each additional year of service credit earned by the member.

#### Example, SERS 3 Contribution

Regarding the \$10 SERS 3 contribution, the \$10 would increase at 3% per year and the contribution amount would increase for each additional year of service. The typical SERS 3 member would receive a benefit with a present value of \$2,200. A SERS 3 member with 11 years of service would receive an employer contribution of \$110 the first year, and if the member remained employed by SERS, the member would receive \$124 the second year and \$544 the twentieth year.

The \$10 per service credit year amount would continue to be deposited into each eligible SERS 3 member's defined contribution account for life, or until termination of employment if the member is not vested. Because this element of the tradeoff proposal applies to a closed group of existing employees (those hired prior to the effective date of the legislation), its cost will taper off in the future and eventually go away.

### **Policy Analysis**

#### ***Modified Rule of 90 for Retirement Eligibility***

A rule of 90 would move toward a more career-based retirement benefit for the Plans 2/3 in that younger workers would be rewarded for long-term public service by receiving an unreduced retirement benefit prior to the time at which they would normally be expected to leave the workforce. The cost of a life-time benefit for such individuals would be higher because the benefit would be paid over a longer period of time. Members who enter the workforce at age 40 and above would not benefit from the rule of 90 as there would be no combination of age and service that could result in a full retirement benefit earlier than age 65, the current normal retirement age for the Plans 2/3.

By making the rule apply prospectively only, the cost of this benefit is somewhat reduced. (Compare to the draft fiscal note for the "full" rule of 90, which is also part of the materials for the December 9, 2004 meeting.) Also, the minimum age of 60 lowers the cost of a rule of 90 and creates less departure from the age-based designs of the Plans 2/3. Finally, applying the rule of 90 prospectively avoids having new plan members pay for the past service of existing members, thus promoting inter-generational equity in funding the benefit.

For additional policy analysis, see the Age 65 Retirement Options report dated October 12, 2004 and the Age 65 Retirement Report dated September 1, 2004.

### ***Plan 2/3 Choice***

This element of the proposal would bring consistency for new hires in PERS, TRS and SERS. Currently, only those hired into a PERS position have Plan 2/3 choice. Generally, it is the legislature's policy and intent to provide similar benefits within the retirement systems of the state wherever possible. See RCW 41.50.005(1). However, if the intended policy is to move toward a plan 3 hybrid pension model (defined benefit plus defined contribution) for all new hires, this element of the proposal would conflict with that policy.

### ***Plan 3 Member Rate Flexibility***

As mentioned above, the subgroup was informed of advice from tax counsel to DRS expressing concern over multiple elections (or opportunities for choice) in the Plans 2/3. DRS was advised of possible problems with annual member contribution rate flexibility if the Plan 2/3 choice provision was added for all plans. It was also noted that contribution rate flexibility already has questionable tax status. The subgroup recommended elimination of contribution rate flexibility in the Plans 3 in order to avoid IRS problems. Plan 2/3 choice for new hires, on the other hand, is the type of benefit that has been approved in many other 401(a) plans, and is not viewed as problematic for the IRS in its own right.

Removal of contribution rate flexibility will not only eliminate IRS uncertainty, but it will also contribute to consistency among the plans, as this provision has been implemented in TRS but not in PERS or SERS. On the other hand, if the IRS approves member contribution rate flexibility for all the Plans 3, this element of the proposal would remove a significant benefit from the Plans 3.

### ***Plan 3 Gain-Sharing***

This final element of the proposal is the most complex from a policy perspective, and has implications for the entire tradeoff package. The proposal would eliminate Plan 3 gain-sharing for members of PERS and TRS, and would amend gain-sharing for SERS to provide a definite annual contribution into the Plan 3 member accounts. The entire benefit package identified in this proposal (including the modified rule of 90 and Plan 2/3 choice) is viewed as the tradeoff for the Plan 3 gain-sharing provisions in current law.

#### **"No Contractual Right" Clause**

The gain-sharing provisions in current law are subject to a "no contractual right" or "reservation" clause. This clause states that "no member or beneficiary has a contractual right to receive this distribution...." These kinds of clauses in plan provisions of the Washington State Retirement Systems have not been tested in the courts. This legal uncertainty lends an aspect of unpredictability to a benefit that is already unpredictable due to market volatility.

Recently the Attorney General's Office provided informal advice that is relevant to whether gain-sharing could be repealed or amended and replaced with other benefits that are more certain. This advice was summarized to the Purchasing Power subgroup as follows:

1. There isn't a clear answer to whether gain-sharing is a vested, contractual right. It might not be a vested, contractual right because of the reservation clause.
2. If the court believes gain-sharing is a vested, contractual right, it is more likely than not that a court would find the right has not been substantially impaired because members and beneficiaries were "put on notice" that the legislature may amend or repeal gain-sharing in the future (via the reservation clause).
3. With regard to comparable benefits, if gain-sharing were repealed and replaced by another benefit, courts favor comparable benefits which are similar to the old benefit.
4. Under the context of gain-sharing, it is reasonable to adjust the value of an uncertain and unpredictable benefit when determining the value of a

comparable replacement which has little or no uncertainty.

#### Trading Uncertainty for Certainty

Having received this informal advice, the Purchasing Power subgroup instructed staff to develop a tradeoff package with a target cost that would be approximately one-half of the forecasted cost of future gain-sharing. However this “tradeoff value” approach is not as simple for the Plans 3 as it was for the Plans 1. This is due largely to the fact that the Plans 1 are closed plans and the Plans 3 are not. The cost of future gain-sharing benefits is figured on a closed group valuation, that is the Plans 3 as of a certain date. In reality, the Plans 3 are not closed. Theoretically, lawmakers would trade a closed group liability for a closed group benefit, i.e. one that doesn’t involve future hires. In practice, however, such an approach would lead to further inconsistencies between the retirement systems and additional administrative complexity.

#### Trading-Off Similar Benefits

The existing Plan 3 gain-sharing benefits involve direct contributions into the Plan 3 accounts of active, retired and term-vested members. These gain-sharing benefits are being traded in part for benefits related to retirement eligibility and plan choice that do not benefit current retirees or term-vested members in TRS and PERS. Also, in terms of the nature of the benefits being traded, the replacement benefits are not the same as those set forth in the gain-sharing chapter. Still, they are retirement benefits (as opposed to health insurance benefits or other non-pension benefits). The SERS 3 benefit retained in the trade-off package is the most comparable to the original gain-sharing provisions.

#### Parity Among the Plans

As mentioned above, the SERS 3 provision was included because SERS 3 members get the least benefit of the three systems from a Rule of 90, and the provision would help provide more balance in the gain-sharing tradeoff for all plan 3 members. As can be seen in the draft fiscal note, the tradeoff package approximates forty-two percent (42%) of the expected long-term employer liability for gain-sharing for the three systems in total, but the cost varies by individual retirement system. The PERS cost is above the target cost of 50%, the TRS cost is below it, and the SERS cost is right at the 50% target.

### Trading-off Plan 3 Benefits for Plan 2/3 Benefits

It should also be noted that Plan 2 members receive a benefit as part of the Plan 3 gain-sharing tradeoff package, yet they do not participate in gain-sharing. This aspect of the proposal may, however, help to address a past inconsistency. As pointed out in the August 30, 2004 Revised Gain-Sharing Report, Plan 2 members were left out of the original gain-sharing provisions. While Plan 2 members have been able to participate in past gains by having lower contribution rates, they are also required to participate in offsetting losses by having their contribution rate's increase. Thus, overall, no benefits were given to Plan 2 members via the gain-sharing provisions. On the other hand, Plan 1 and Plan 3 members participate in gains by getting permanent benefit increases. They do not, however, pay for offsetting losses as their member contribution rates are fixed.

Still, if the primary purpose of the tradeoff package is to replace gain-sharing with a more certain Plan 3 benefit, and gain-sharing does not apply to the Plans 2, it may not make sense to include a benefit in the proposal that enhances the Plans 2. Also, if the intent is for future employees to move to the Plan 3 hybrid pension model, then again, the proposal may be inconsistent with this policy, as it enhances Plan 2 benefits and would result in more new entrants into the Plans 2.

### **Administrative Impacts**

On December 3, 2004, DRS Director John Charles indicated that there are no significant barriers to implementation, but an administrative fiscal note would be prepared on any final legislative proposal.

### **Bill (Draft)**

The bill draft for this proposal is provided as a handout at the December 7, 2004 meeting.

### **Fiscal Note (Draft)**

The draft fiscal note for this proposal is provided as a handout at the December 7, 2004 meeting.

1       AN ACT Relating to amending and replacing plan 3 gain-sharing  
2 provisions with prospective unreduced retirement benefits in plans 2  
3 and 3 of the public employees' retirement system, the teachers'  
4 retirement system, and the school employees' retirement system; with a  
5 ninety-day window for new members of the teachers' retirement system  
6 and the school employees' retirement system to make a choice between  
7 plan 2 and plan 3; and with an annual employer contribution into the  
8 plan 3 member accounts of the school employees' retirement system;  
9 amending RCW 41.40.630, 41.40.820, 41.32.765, 41.32.875, 41.35.420,  
10 41.35.680, 41.32.835, 41.35.610, 41.31A.010, 41.31A.020, 41.45.061, and  
11 41.34.040; decodifying RCW 41.31A.030 and 41.31A.040; and providing an  
12 effective date.

13       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

14       **Sec. 1.** RCW 41.40.630 and 2000 c 247 s 901 are each amended to  
15 read as follows:

16       (1) NORMAL RETIREMENT. Any member with at least five service  
17 credit years who has attained at least age sixty-five shall be eligible  
18 to retire and to receive a retirement allowance computed according to  
19 the provisions of RCW 41.40.620.

1       (2) UNREDUCED RETIREMENT. Any member who has completed at least  
2 five service credit years and has attained age sixty, and for whom the  
3 sum of the number of years of the member's age and the number of years  
4 of the member's service credit equals ninety or more, shall be eligible  
5 to retire. For the portion of the member's benefit that is based on  
6 service credit earned after July 1, 2007, the member shall receive an  
7 unreduced retirement allowance computed according to the provisions of  
8 RCW 41.40.620. For the portion of the member's benefit that is based  
9 on service credit earned prior to July 1, 2007, the retirement  
10 allowance shall be reduced under subsection (3) or (4) of this section  
11 as applicable.

12       (3) EARLY RETIREMENT. Any member who has completed at least twenty  
13 service credit years and has attained age fifty-five shall be eligible  
14 to retire and to receive a retirement allowance computed according to  
15 the provisions of RCW 41.40.620, except that a member retiring pursuant  
16 to this subsection shall have the retirement allowance actuarially  
17 reduced to reflect the difference in the number of years between age at  
18 retirement and the attainment of age sixty-five.

19       (~~((+3+))~~) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
20 completed at least thirty service credit years and has attained age  
21 fifty-five shall be eligible to retire and to receive a retirement  
22 allowance computed according to the provisions of RCW 41.40.620, except  
23 that a member retiring pursuant to this subsection shall have the  
24 retirement allowance reduced by three percent per year to reflect the  
25 difference in the number of years between age at retirement and the  
26 attainment of age sixty-five.

27       **Sec. 2.** RCW 41.40.820 and 2000 c 247 s 309 are each amended to  
28 read as follows:

29       (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
30 and who has:

- 31       (a) Completed ten service credit years; or  
32       (b) Completed five service credit years, including twelve service  
33 credit months after attaining age fifty-four; or  
34       (c) Completed five service credit years by the transfer payment  
35 date specified in RCW 41.40.795, under the public employees' retirement  
36 system plan 2 and who transferred to plan 3 under RCW 41.40.795;

1 shall be eligible to retire and to receive a retirement allowance  
2 computed according to the provisions of RCW 41.40.790.

3 (2) UNREDUCED RETIREMENT. Any member who has completed the number  
4 of service credit years required in subsection (1) of this section and  
5 has attained age sixty, and for whom the sum of the number of years of  
6 the member's age and the number of years of the member's service credit  
7 equals ninety or more, shall be eligible to retire. For the portion of  
8 the member's benefit that is based on service credit earned after July  
9 1, 2007, the member shall receive an unreduced retirement allowance  
10 computed according to the provisions of RCW 41.40.790. For the portion  
11 of the member's benefit that is based on service credit earned prior to  
12 July 1, 2007, the retirement allowance shall be reduced under  
13 subsection (3) or (4) of this section as applicable.

14 (3) EARLY RETIREMENT. Any member who has attained at least age  
15 fifty-five and has completed at least ten years of service shall be  
16 eligible to retire and to receive a retirement allowance computed  
17 according to the provisions of RCW 41.40.790, except that a member  
18 retiring pursuant to this subsection shall have the retirement  
19 allowance actuarially reduced to reflect the difference in the number  
20 of years between age at retirement and the attainment of age sixty-  
21 five.

22 ((+3)) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
23 completed at least thirty service credit years and has attained age  
24 fifty-five shall be eligible to retire and to receive a retirement  
25 allowance computed according to the provisions of RCW 41.40.790, except  
26 that a member retiring pursuant to this subsection shall have the  
27 retirement allowance reduced by three percent per year to reflect the  
28 difference in the number of years between age at retirement and the  
29 attainment of age sixty-five.

30 **Sec. 3.** RCW 41.32.765 and 2000 c 247 s 902 are each amended to  
31 read as follows:

32 (1) NORMAL RETIREMENT. Any member with at least five service  
33 credit years of service who has attained at least age sixty-five shall  
34 be eligible to retire and to receive a retirement allowance computed  
35 according to the provisions of RCW 41.32.760.

36 (2) UNREDUCED RETIREMENT. Any member who has completed at least  
37 five service credit years and has attained age sixty, and for whom the



1 sum of the number of years of the member's age and the number of years  
2 of the member's service credit equals ninety or more, shall be eligible  
3 to retire. For the portion of the member's benefit that is based on  
4 service credit earned after July 1, 2007, the member shall receive an  
5 unreduced retirement allowance computed according to the provisions of  
6 RCW 41.32.760. For the portion of the member's benefit that is based  
7 on service credit earned prior to July 1, 2007, the retirement  
8 allowance shall be reduced under subsection (3) or (4) of this section  
9 as applicable.

10 (3) EARLY RETIREMENT. Any member who has completed at least twenty  
11 service credit years of service who has attained at least age fifty-  
12 five shall be eligible to retire and to receive a retirement allowance  
13 computed according to the provisions of RCW 41.32.760, except that a  
14 member retiring pursuant to this subsection shall have the retirement  
15 allowance actuarially reduced to reflect the difference in the number  
16 of years between age at retirement and the attainment of age sixty-  
17 five.

18 ((+3+)) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
19 completed at least thirty service credit years and has attained age  
20 fifty-five shall be eligible to retire and to receive a retirement  
21 allowance computed according to the provisions of RCW 41.32.760, except  
22 that a member retiring pursuant to this subsection shall have the  
23 retirement allowance reduced by three percent per year to reflect the  
24 difference in the number of years between age at retirement and the  
25 attainment of age sixty-five.

26 Sec. 4. RCW 41.32.875 and 2000 c 247 s 903 are each amended to  
27 read as follows:

28 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
29 and who has:

30 (a) Completed ten service credit years; or

31 (b) Completed five service credit years, including twelve service  
32 credit months after attaining age fifty-four; or

33 (c) Completed five service credit years by July 1, 1996, under plan  
34 2 and who transferred to plan 3 under RCW 41.32.817;  
35 shall be eligible to retire and to receive a retirement allowance  
36 computed according to the provisions of RCW 41.32.840.

1       (2) UNREDUCED RETIREMENT. Any member who has completed the number  
2 of service credit years required in subsection (1) of this section and  
3 has attained age sixty, and for whom the sum of the number of years of  
4 the member's age and the number of years of the member's service credit  
5 equals ninety or more, shall be eligible to retire. For the portion of  
6 the member's benefit that is based on service credit earned after July  
7 1, 2007, the member shall receive an unreduced retirement allowance  
8 computed according to the provisions of RCW 41.32.840. For the portion  
9 of the member's benefit that is based on service credit earned prior to  
10 July 1, 2007, the retirement allowance shall be reduced under  
11 subsection (3) or (4) of this section as applicable.

12       (3) EARLY RETIREMENT. Any member who has attained at least age  
13 fifty-five and has completed at least ten years of service shall be  
14 eligible to retire and to receive a retirement allowance computed  
15 according to the provisions of RCW 41.32.840, except that a member  
16 retiring pursuant to this subsection shall have the retirement  
17 allowance actuarially reduced to reflect the difference in the number  
18 of years between age at retirement and the attainment of age sixty-  
19 five.

20       (~~((3))~~) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
21 completed at least thirty service credit years and has attained age  
22 fifty-five shall be eligible to retire and to receive a retirement  
23 allowance computed according to the provisions of RCW 41.32.840, except  
24 that a member retiring pursuant to this subsection shall have the  
25 retirement allowance reduced by three percent per year to reflect the  
26 difference in the number of years between age at retirement and the  
27 attainment of age sixty-five.

28       **Sec. 5.** RCW 41.35.420 and 2000 c 247 s 905 are each amended to  
29 read as follows:

30       (1) NORMAL RETIREMENT. Any member with at least five service  
31 credit years who has attained at least age sixty-five shall be eligible  
32 to retire and to receive a retirement allowance computed according to  
33 the provisions of RCW 41.35.400.

34       (2) UNREDUCED RETIREMENT. Any member who has completed at least  
35 five service credit years and has attained age sixty, and for whom the  
36 sum of the number of years of the member's age and the number of years  
37 of the member's service credit equals ninety or more, shall be eligible

1 to retire. For the portion of the member's benefit that is based on  
2 service credit earned after July 1, 2007, the member shall receive an  
3 unreduced retirement allowance computed according to the provisions of  
4 RCW 41.35.400. For the portion of the member's benefit that is based  
5 on service credit earned prior to July 1, 2007, the retirement  
6 allowance shall be reduced under subsection (3) or (4) of this section  
7 as applicable.

8 (3) EARLY RETIREMENT. Any member who has completed at least twenty  
9 service credit years and has attained age fifty-five shall be eligible  
10 to retire and to receive a retirement allowance computed according to  
11 the provisions of RCW 41.35.400, except that a member retiring pursuant  
12 to this subsection shall have the retirement allowance actuarially  
13 reduced to reflect the difference in the number of years between age at  
14 retirement and the attainment of age sixty-five.

15 ((+3+)) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
16 completed at least thirty service credit years and has attained age  
17 fifty-five shall be eligible to retire and to receive a retirement  
18 allowance computed according to the provisions of RCW 41.35.400, except  
19 that a member retiring pursuant to this subsection shall have the  
20 retirement allowance reduced by three percent per year to reflect the  
21 difference in the number of years between age at retirement and the  
22 attainment of age sixty-five.

23 Sec. 6. RCW 41.35.680 and 2000 c 247 s 906 are each amended to  
24 read as follows:

25 (1) NORMAL RETIREMENT. Any member who is at least age sixty-five  
26 and who has:

27 (a) Completed ten service credit years; or

28 (b) Completed five service credit years, including twelve service  
29 credit months after attaining age fifty-four; or

30 (c) Completed five service credit years by September 1, 2000, under  
31 the public employees' retirement system plan 2 and who transferred to  
32 plan 3 under RCW 41.35.510;

33 shall be eligible to retire and to receive a retirement allowance  
34 computed according to the provisions of RCW 41.35.620.

35 (2) UNREDUCED RETIREMENT. Any member who has completed the number  
36 of service credit years required in subsection (1) of this section and  
37 has attained age sixty, and for whom the sum of the number of years of

1 the member's age and the number of years of the member's service credit  
2 equals ninety or more, shall be eligible to retire. For the portion of  
3 the member's benefit that is based on service credit earned after July  
4 1, 2007, the member shall receive an unreduced retirement allowance  
5 computed according to the provisions of RCW 41.35.620. For the portion  
6 of the member's benefit that is based on service credit earned prior to  
7 July 1, 2007, the retirement allowance shall be reduced under  
8 subsection (3) or (4) of this section as applicable.

9 (3) EARLY RETIREMENT. Any member who has attained at least age  
10 fifty-five and has completed at least ten years of service shall be  
11 eligible to retire and to receive a retirement allowance computed  
12 according to the provisions of RCW 41.35.620, except that a member  
13 retiring pursuant to this subsection shall have the retirement  
14 allowance actuarially reduced to reflect the difference in the number  
15 of years between age at retirement and the attainment of age sixty-  
16 five.

17 ((+3+)) (4) ALTERNATE EARLY RETIREMENT. Any member who has  
18 completed at least thirty service credit years and has attained age  
19 fifty-five shall be eligible to retire and to receive a retirement  
20 allowance computed according to the provisions of RCW 41.35.620, except  
21 that a member retiring pursuant to this subsection shall have the  
22 retirement allowance reduced by three percent per year to reflect the  
23 difference in the number of years between age at retirement and the  
24 attainment of age sixty-five.

25 **Sec. 7.** RCW 41.32.835 and 1995 c 239 s 105 are each amended to  
26 read as follows:

27 (1) All teachers who first become employed by an employer in an  
28 eligible position on or after ~~((July 1, 1996, shall be members of plan~~  
29 ~~3)) July 1, 2007, shall have a period of ninety days to make an~~  
30 irrevocable choice to become a member of plan 2 or plan 3. At the end  
31 of ninety days, if the member has not made a choice to become a member  
32 of plan 2, he or she becomes a member of plan 3.

33 (2) For administrative efficiency, until a member elects to become  
34 a member of plan 3, or becomes a member of plan 3 by default under  
35 subsection (1) of this section, the member shall be reported to the  
36 department in plan 2, with member and employer contributions. Upon  
37 becoming a member of plan 3 by election or by default, all service

1 credit shall be transferred to the member's plan 3 defined benefit, and  
2 all employee accumulated contributions shall be transferred to the  
3 member's plan 3 defined contribution account.

4       **Sec. 8.** RCW 41.35.610 and 1998 c 341 s 202 are each amended to  
5 read as follows:

6       (1) All classified employees who first become employed by an  
7 employer in an eligible position on or after ((September 1, 2000, shall  
8 be members of plan 3)) July 1, 2007, shall have a period of ninety days  
9 to make an irrevocable choice to become a member of plan 2 or plan 3.  
10 At the end of ninety days, if the member has not made a choice to  
11 become a member of plan 2, he or she becomes a member of plan 3.

12       (2) For administrative efficiency, until a member elects to become  
13 a member of plan 3, or becomes a member of plan 3 by default under  
14 subsection (1) of this section, the member shall be reported to the  
15 department in plan 2, with member and employer contributions. Upon  
16 becoming a member of plan 3 by election or by default, all service  
17 credit shall be transferred to the member's plan 3 defined benefit, and  
18 all employee accumulated contributions shall be transferred to the  
19 member's plan 3 defined contribution account.

20       **Sec. 9.** RCW 41.31A.010 and 2000 c 247 s 407 are each amended to  
21 read as follows:

22       The definitions in this section apply throughout this chapter  
23 unless the context requires otherwise.

24       (1) "Actuary" means the state actuary or the office of the state  
25 actuary.

26       (2) "Department" means the department of retirement systems.

27       (3) ~~(( "Teacher" means any employee included in the membership of~~  
28 ~~the teachers' retirement system as provided for in chapter 41.32 RCW.~~

29 ~~(+4+))~~ "Member account" or "member's account" means the sum of any  
30 contributions as provided for in chapter 41.34 RCW and the earnings on  
31 behalf of the member.

32       ~~((+5+))~~ (4) "Classified employee" means the same as in RCW  
33 41.35.010.

34       ~~((+6) "Public employee" means the same as "member" as defined in~~  
35 ~~RCW 41.40.010(5)-.))~~

1       (5) "Terminated vested member" means a member who separates or has  
2 separated from service after having completed enough service credit  
3 years to be vested in the defined benefit portion of the members' plan  
4 and who remains a member during the period of absence from service for  
5 the exclusive purpose of receiving a future retirement allowance.

6       **Sec. 10.** RCW 41.31A.020 and 2003 c 294 s 4 are each amended to  
7 read as follows:

8       (1) On January 1, ~~((2004))~~ 2008, and on January 1st of ~~((even-~~  
9 ~~numbered years))~~ each year thereafter, the member account of a person  
10 meeting the requirements of this section shall be credited by the  
11 extraordinary investment gain amount.

12       ~~((The following persons))~~ Members, retirees, and terminated  
13 vested members of the school employees' retirement system plan 3 as of  
14 June 30, 2007, who also meet the criteria in any of (a) through (f) of  
15 this subsection shall be eligible for the benefit provided in  
16 subsection (1) of this section:

17       (a) Any member of the ~~((teachers' retirement system plan 3, the))~~  
18 Washington school employees' retirement system plan 3 ~~((, or the public~~  
19 ~~employees' retirement system plan 3))~~ who earned service credit during  
20 the twelve-month period from September 1st to August 31st immediately  
21 preceding the distribution and had a balance of at least one thousand  
22 dollars in their member account on August 31st of the year immediately  
23 preceding the distribution; or

24       (b) Any person in receipt of a benefit pursuant to RCW  
25 ~~((41.32.875,))~~ 41.35.680 ~~((, or 41.40.820))~~; or

26       (c) Any person who is a retiree pursuant to RCW 41.34.020(8) and  
27 who:

28       (i) Completed ten service credit years; or

29       (ii) Completed five service credit years, including twelve service  
30 months after attaining age fifty-four; or

31       ~~((Any teacher who is a retiree pursuant to RCW 41.34.020(8) and~~  
32 ~~who has completed five service credit years by July 1, 1996, under plan~~  
33 ~~2 and who transferred to plan 3 under RCW 41.32.817; or~~

34       ~~((e))~~ Any classified employee who is a retiree pursuant to RCW  
35 41.34.020(8) and who has completed five service credit years by  
36 September 1, 2000, and who transferred to plan 3 under RCW 41.35.510;  
37 or

1       ~~((f) Any public employee who is a retiree pursuant to RCW~~  
2 ~~41.34.020(8) and who has completed five service credit years by March~~  
3 ~~1, 2002, and who transferred to plan 3 under RCW 41.40.795; or~~

4       ~~(g))~~ (e) Any person who had a balance of at least one thousand  
5 dollars in their member account on August 31st of the year immediately  
6 preceding the distribution and who:

7       (i) Completed ten service credit years; or

8       (ii) Completed five service credit years, including twelve service  
9 months after attaining age fifty-four; or

10       ~~((h) Any teacher who had a balance of at least one thousand~~  
11 ~~dollars in their member account on August 31st of the year immediately~~  
12 ~~preceding the distribution and who has completed five service credit~~  
13 ~~years by July 1, 1996, under plan 2 and who transferred to plan 3 under~~  
14 ~~RCW 41.32.817; or~~

15       ~~(i))~~ (f) Any classified employee who had a balance of at least one  
16 thousand dollars in their member account on August 31st of the year  
17 immediately preceding the distribution and who has completed five  
18 service credit years by September 1, 2000, and who transferred to plan  
19 3 under RCW 41.35.510(~~;~~ or

20       ~~(j) Any public employee who had a balance of at least one thousand~~  
21 ~~dollars in their member account on August 31st of the year immediately~~  
22 ~~preceding the distribution and who has completed five service credit~~  
23 ~~years by March 1, 2002, and who transferred to plan 3 under RCW~~  
24 ~~41.40.795)).~~

25       (3) The extraordinary investment gain amount shall be calculated as  
26 follows:

27       ~~((a) One-half of the sum of the value of the net assets held in~~  
28 ~~trust for pension benefits in the teachers' retirement system combined~~  
29 ~~plan 2 and 3 fund, the Washington school employees' retirement system~~  
30 ~~combined plan 2 and 3 fund, and the public employees' retirement system~~  
31 ~~combined plan 2 and 3 fund at the close of the previous state fiscal~~  
32 ~~year not including the amount attributable to member accounts;~~

33       ~~(b) Multiplied by the amount which the compound average of~~  
34 ~~investment returns on those assets over the previous four state fiscal~~  
35 ~~years exceeds ten percent;~~

36       ~~(c) Multiplied by the proportion of:~~

37       ~~(i) The sum of the service credit on August 31st of the previous~~

~~year of all persons eligible for the benefit provided in subsection (1) of this section; to~~

~~(ii) The sum of the service credit on August 31st of the previous year of:~~

~~(A) All persons eligible for the benefit provided in subsection (1) of this section;~~

~~(B) Any person who earned service credit in the teachers' retirement system plan 2, the Washington school employees' retirement system plan 2, or the public employees' retirement system plan 2 during the twelve-month period from September 1st to August 31st immediately preceding the distribution;~~

~~(C) Any person in receipt of a benefit pursuant to RCW 41.32.765, 41.35.420, or 41.40.630; and~~

~~(D) Any person with five or more years of service in the teachers' retirement system plan 2, the Washington school employees' retirement system plan 2, or the public employees' retirement system plan 2;~~

~~(d) Divided proportionally among persons eligible for the benefit provided in subsection (1) of this section on the basis of their)) Ten dollars, which shall be increased by three percent per year rounded to the nearest cent, multiplied by the member's service credit total on August 31st of the previous year.~~

~~((4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to receive this distribution not granted prior to that time.))~~

NEW SECTION. Sec. 11. RCW 41.31A.030 is decodified.

NEW SECTION. Sec. 12. RCW 41.31A.040 is decodified.

Sec. 13. RCW 41.45.061 and 2004 c 242 s 40 are each amended to read as follows:

(1) The required contribution rate for members of the ((plan 2)) teachers' retirement system plan 2 shall be ((fixed at the rates in effect on July 1, 1996, subject to the following:

~~(a) Beginning September 1, 1997, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan 2 and 3 rates adopted under RCW 41.45.060, 41.45.054, and 41.45.070 for the teachers' retirement system;~~



1 ~~(b) In addition, the employee contribution rate for plan 2 shall be~~  
2 ~~increased by fifty percent of the contribution rate increase caused by~~  
3 ~~any plan 2 benefit increase passed after July 1, 1996,~~

4 ~~(c) In addition, the employee contribution rate for plan 2 shall~~  
5 ~~not be increased as a result of any distributions pursuant to section~~  
6 ~~309, chapter 341, Laws of 1998 and RCW 41.31A.020)) set at the same~~  
7 ~~rate as the employer combined plan 2 and plan 3 rate.~~

8 (2) The required contribution rate for members of the school  
9 employees' retirement system plan 2 shall ~~((equal the school employees'~~  
10 ~~retirement system employer plan 2 and 3 contribution rate adopted under~~  
11 ~~RCW 41.45.060, 41.45.054, and 41.45.070, except as provided in~~  
12 ~~subsection (3) of this section.~~

13 ~~(3) The member contribution rate for the school employees'~~  
14 ~~retirement system plan 2 shall be increased by fifty percent of the~~  
15 ~~contribution rate increase caused by any plan 2 benefit increase passed~~  
16 ~~after September 1, 2000)) be set at the same rate as the employer~~  
17 ~~combined plan 2 and plan 3 rate.~~

18 ~~((4))~~ (3) The required contribution rate for members of the  
19 public employees' retirement system plan 2 shall be set at the same  
20 rate as the employer combined plan 2 and plan 3 rate.

21 ~~((5))~~ (4) The required contribution rate for members of the law  
22 enforcement officers' and fire fighters' retirement system plan 2 shall  
23 be set at fifty percent of the cost of the retirement system.

24 ~~((6))~~ (5) The ~~((employee))~~ required contribution rates for  
25 members of the school employees' retirement system plan 2 ~~((under~~  
26 ~~subsections (3) and (4) of this section))~~ shall not include any  
27 increase as a result of any distributions pursuant to RCW 41.31A.020  
28 ~~((and 41.31A.030)).~~

29 ~~((7))~~ (6) The required plan 2 and 3 contribution rates for  
30 employers shall be adopted in the manner described in RCW 41.45.060,  
31 41.45.054, and 41.45.070.

32 ~~((8))~~ (7) The required contribution rate for members of the  
33 public safety employees' retirement system plan 2 shall be set at fifty  
34 percent of the cost of the retirement system.

35 **Sec. 14.** RCW 41.34.040 and 2003 c 156 s 1 are each amended to read  
36 as follows:

(1) A member shall contribute from his or her compensation according to one of the following rate structures in addition to the mandatory minimum five percent:

<u>Option A</u>	<u>Contribution Rate</u>
All Ages	0.0% fixed
<u>Option B</u>	
Up to Age 35	0.0%
Age 35 to 44	1.0%
Age 45 and above	2.5%
<u>Option C</u>	
Up to Age 35	1.0%
Age 35 to 44	2.5%
Age 45 and above	3.5%
<u>Option D</u>	
All Ages	2.0%
<u>Option E</u>	
All Ages	5.0%
<u>Option F</u>	
All Ages	10.0%

(2) The board shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the board shall conform to the requirements stated in subsections (3) and (5) of this section.

(3) (a) For members of the teachers' retirement system entering plan 3 under RCW 41.32.835 or members of the school employees' retirement system entering plan 3 under RCW 41.35.610, within ninety days of becoming a member he or she has an option to choose one of the above contribution rate structures. If the member does not select an option within the ninety-day period, he or she shall be assigned option A.

(b) For members of the public employees' retirement system entering plan 3 under RCW 41.40.785, within the ninety days described in RCW 41.40.785 an employee who irrevocably chooses plan 3 shall select one of the above contribution rate structures. If the member does not select an option within the ninety-day period, he or she shall be assigned option A.

# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:	CODE:	DATE:	BILL NUMBER:
Office of the State Actuary	035	12/03/04	Z-0243.4

## SUMMARY OF BILL:

This bill impacts the Plans 2 and 3 of the teachers' retirement system (TRS), the school employees' retirement system (SERS) and the public employees' retirement system (PERS). The bill eliminates Plan 3 gain-sharing for TRS and PERS. Existing Plan 3 gain-sharing provisions would be replaced with a rule of 90 that uses an age 60 minimum, and that has unreduced benefits for prospective service only in TRS 2/3, SERS 2/3 and PERS 2/3. In addition, Plan 2/3 choice would be added for new hires in TRS and SERS (same structure for choice as in PERS). The proposed legislation amends Plan 3 gain-sharing for SERS by providing an annual contribution to the defined contribution accounts of existing SERS 3 members. The SERS 3 contribution would be \$10 times years of service.

The trade-off package also removes the Plan 3 provision that allows members to change their employee contribution rate by notifying their employer in writing during the month of January. The bill also amends the section of the actuarial funding chapter addressing employee contributions in order to make it consistent with the changes to gain-sharing.

Effective Date: July 1, 2007

## CURRENT SITUATION:

Currently, Plan 2/3 members of TRS, SERS and PERS are eligible to retire with unreduced benefits when they are vested and reach age 65. The vesting period for the Plans 2 is five years. The vesting period for the defined benefit component of the Plans 3 is ten years, or 5 years if 12 months of service were accrued after attaining age 54. (Plan 3 members are immediately vested in the defined contribution portion of their benefit, and Plan 3 members are vested if they were vested in Plan 2 when they transferred.)

Currently, of the three systems, PERS is the only one that has Plan 2/3 choice. New PERS employees have a period of ninety days to make an irrevocable choice to become a member of Plan 2 or Plan 3. At the end of ninety days, if the member has not made a choice to become a member of Plan 2, he or she automatically becomes a member of Plan 3. In TRS and SERS, new employees automatically become members of Plan 3, and the Plans 2 are closed to new hires.

Current law provides that members of the Plans 3 may change their contribution rate option by notifying their employer in writing during the month of January. In practice, this provision is only available to TRS 3 members, as the IRS has not yet approved contribution rate flexibility for PERS and SERS. An application for IRS approval has been pending for approximately 2.5 years.

Currently, gain-sharing applies to the Plans 1 and 3 of TRS, SERS and PERS. Gain-sharing is a mechanism that increases benefits. The increases are not automatic, but are contingent on the occurrence of "extraordinary investment gains." Extraordinary gains occur when the compound average of investment returns on pension fund assets exceeds 10% for the previous four state fiscal years. When this occurs, a calculation is performed to determine a dollar amount that will be distributed to eligible members. Gain-sharing calculations are currently made once each biennium with potential distributions occurring in January of even-numbered years. In the Plans 3, active, retired and terminated vested members receive distributions as a lump sum dollar amount that is deposited directly into their defined contribution accounts based on years of service credit. There have been two gain-sharing distributions since the inception of gain-sharing: one in 1998 and one in 2000.

#### **MEMBERS IMPACTED:**

The repeal of Plan 3 gain sharing for PERS and TRS and the modification of Plan 3 gain sharing for SERS could potentially impact all current and future members of PERS 3, TRS 3, and SERS 3, including all of the active Plan 3 members except those that would not meet the requirement of having a minimum \$1,000 balance in the member account, all of the Plan 3 annuitants, all of the Plan 3 terminated vested members meeting the minimum balance requirement, and any Plan 3 terminated non-vested members who are rehired.

<i>(As of September 30, 2003)</i>	<b>PERS 3</b>	<b>TRS 3</b>	<b>SERS 3</b>
Active	17,548	47,263	27,710
Annuitants	86	385	306
Terminated and Vested	<u>770</u>	<u>2,418</u>	<u>1,648</u>
Total	18,404	50,066	29,664

#### ***Rule of 90 Benefit***

	<b>PERS 2</b>	<b>PERS 3</b>	<b>TRS 2</b>	<b>TRS 3</b>	<b>SERS 2</b>	<b>SERS 3</b>
Number of Affected Active	82,259	13,497	5,209	37,310	12,455	16,167
Total Active Members	117,262	17,548	7,637	47,263	21,504	27,710

Regarding the Plan 2 /3 choice, this will impact TRS and SERS members hired on or after July 1, 2007. We estimate that from October 1, 2007 to September 30, 2008, there will be a total of 4,492 new TRS members and 5,384 new SERS members. The number of new members is expected to increase each year. We estimate that 50% of these new members would elect to join Plan 2 and 50% would elect Plan 3.

Regarding the SERS contribution, this will impact 29,664 members of SERS 3, including 27,710 active SERS 3 members, 306 SERS 3 annuitants, and 1,648 SERS 3 terminated vested members. This is the same as the number of SERS 3 members impacted by the repeal of gain sharing. The only difference is that to receive the contribution at any time in the future, a member would need to meet the eligibility requirements on the effective date of the act and the eligibility requirements on the effective date of a future distribution.

Regarding the removal of the Plan 3 provision that allows members to change their employee contribution rate by notifying their employer in writing during the month of January, this would impact 17,548 active PERS 3 members, 47,263 active TRS 3 members, and 27,710 active SERS 3 members.

For a member impacted by the Rule of 90 portion of the bill, the increase in benefits would be the removal of benefit reduction for early retirement without the Rule of 90 for service accrued after the effective date of the act. For example, a member hired after the effective date retiring at age 60 with 30 years of service would be entitled to an unreduced benefit instead of a benefit with a 15% reduction. A member age 45 with 15 years of service as of the effective date retiring at age 60 with 30 years of service would be entitled to a benefit with a 7.5% reduction instead of a benefit with a 15% reduction (one-half of the 15% reduction, since 15 years out of 30, or one-half, of the service would have been credited before the effective date).

Regarding the \$10 SERS 3 contribution, the \$10 multiplier would increase at 3% per year and the contribution amount would increase for each additional year of service. The typical SERS 3 member would receive a benefit with a present value of \$2,200. A SERS 3 member with 11 years of service would receive an employer contribution of \$110 the first year, and if the member remained employed by SERS, the member would receive \$124 the second year and \$544 the twentieth year. The amount would continue to be deposited to the member's account for life, or until termination of employment if the member is non-vested.

Regarding the removal of the Plan 3 provision that allows members to change their employee contribution rate by notifying their employer in writing during the month of January, this would impact the defined contribution portion of the plan and would have no impact on benefits under the defined benefit plan.

## **ASSUMPTIONS:**

We assumed that employer contribution rates would decrease after the proposed repeal of Plan 3 gain sharing because we started with rates that included the cost of future gain-sharing benefits. The cost impact was developed using the same logic as used for the valuation (rates were determined assuming a delayed effective date).

For pricing the Rule of 90 portion of the bill, we assumed that there would be an increase in retirement rates due to the Rule of 90. The additional rates or "kickers" are provided at the end of this fiscal note. The additional rates at age 60 are higher to reflect the pent-up demand for the benefit from the members who satisfy the rule of 90 before the minimum age of 60. Since the portion of the benefit without reduction for early commencement would apply to prospective service only, we determined the price of this benefit using the increase in the Entry Age Normal Cost rate (EANC) for current members and for new entrants.

For pricing the cost of choice, we determined the Entry Age Normal Cost rate (EANC) for Plan 2 as if every active Plan 2 and Plan 3 member were in Plan 2, and we determined the EANC for Plan 3 as if every active Plan 2 and Plan 3 member were in Plan 3. We calculated the excess of the employer portion of the EANC for Plan 2 over the EANC for Plan 3 and then took 50% of the difference to reflect our assumption that 50% of new members in TRS and SERS would elect to join Plan 2 and 50% would elect Plan 3. Since the choice would only apply to new members, we assumed no rate increase for choice for the current members, and applied the rate increase for choice to the projected payroll for the new members only.

We considered making an adjustment for the cost of choice based on the age of members who would elect Plan 2 compared to the age of members who would elect Plan 3, however, after reviewing the choices made by new members in PERS over an 18-month period, there was no significant difference in choice based on age.

For the SERS 3 contribution, we projected the total years of credited service for SERS 3 members, active and inactive, multiplied the service by the indexed benefit, and took the present value at 8%.

## **FISCAL IMPACT:**

### **Description:**

The decrease in contribution rates from the proposed repeal of future Plan 3 gain sharing is partially offset by the increase due to the proposed benefit improvements.

### **Actuarial Determinations:**

The bill will impact the actuarial funding of the system by increasing the present value of benefits payable under the System (for existing members impacted by this bill) and the required actuarial contribution rate as shown below:

<i>(Dollars in Millions)</i>		<b>Current</b>	<b>Increase</b>	<b>Total</b>
<b>Actuarial Present Value of Projected Benefits</b> (The Value of the Total Commitment to all Current Members)	<b>PERS 2/3</b>	\$14,278	\$41	\$14,319
	<b>TRS 2/3</b>	\$5,220	\$(236)	\$4,984
	<b>SERS 2/3</b>	\$2,138	\$(73)	\$2,065
<b>Unfunded Actuarial Accrued Liability</b> (The Portion of the Plan 1 Liability that is Amortized at 2024)	<b>PERS 1</b>	\$2,620	\$3	\$2,623
	<b>TRS 1</b>	\$1,416	\$16	\$1,432
<b>Unfunded Liability (PBO)</b> (The Value of the Total Commitment to all Current Members Attributable to Past Service)	<b>PERS 2/3</b>	\$(3,184)	\$34	\$(3,150)
	<b>TRS 2/3</b>	\$(1,397)	\$(84)	\$(1,481)
	<b>SERS 2/3</b>	\$(425)	\$(25)	\$(450)

**Increase in Contribution Rates:**

	PERS	TRS	SERS
<b>Employee</b> (Effective 9/1/2005 unless indicated otherwise)			
Repeal Gain Sharing (effective 7/1/2005 for PERS)	0.00%	0.00%	0.00%
Modified Rule of 90	0.18%	0.34%	0.17%
Plan 2/3 Choice	0.00%	0.00%	0.00%
SERS 3 Contribution	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
Total Benefit Improvements	0.18%	0.34%	0.17%
<b>Net Employee (Plan 2)</b>	0.18%	0.34%	0.17%
<b>Employer State</b> (Effective 9/1/2005 unless indicated otherwise)			
Repeal Gain Sharing (effective 7/1/2005 for PERS)	-0.25%	-1.17%	-1.95%
Modified Rule of 90	0.18%	0.33%	0.17%
Plan 2/3 Choice	0.00%	0.00%	0.00%
SERS 3 Contribution	<u>0.00%</u>	<u>0.00%</u>	<u>0.81%</u>
Total Benefit Improvements	0.18%	0.33%	0.98%
<b>Net Employer State</b>	-0.07%	-0.84%	-0.97%

*The TRS Employer rate change of (1.17%) for the repeal of gain sharing is made up of a normal cost rate change of (1.21%) plus a change in the Plan 1 UAAL rate of 0.04%.*

*The TRS Employer rate change of 0.33% for the benefit improvements is made up of a normal cost rate change of 0.34% plus a change in the Plan 1 UAAL rate of (0.01%).*

*The net TRS Employer rate change of (0.84%) is made up of a normal cost rate change of (0.87%) plus a change in the Plan 1 UAAL rate of 0.03%.*

# **Fiscal Budget Determinations (Repeal Plan 3 Gain Sharing only):**

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>	<b>Total</b>
<b>2005-2007</b>				
<b>State:</b>				
General Fund	\$(8.0)	\$(80.4)	\$(28.1)	\$(116.5)
Non-General Fund	<u>(13.3)</u>	<u>0.0</u>	<u>0.0</u>	<u>(13.3)</u>
<b>Total State</b>	<b>\$(21.3)</b>	<b>\$(80.4)</b>	<b>\$(28.1)</b>	<b>\$(129.8)</b>
Local Government	\$(18.9)	\$(16.5)	\$(25.0)	\$(60.4)
Total Employer	\$(40.2)	\$(96.9)	\$(53.1)	\$(190.2)
 Total Employee	 \$0.0	 \$0.0	 \$0.0	 \$0.0
<b>2007-2009</b>				
<b>State:</b>				
General Fund	\$(9.0)	\$(89.6)	\$(34.2)	\$(132.8)
Non-General Fund	<u>(14.9)</u>	<u>0.0</u>	<u>0.0</u>	<u>(14.9)</u>
<b>Total State</b>	<b>\$(23.9)</b>	<b>\$(89.6)</b>	<b>\$(34.2)</b>	<b>\$(147.7)</b>
Local Government	\$(21.2)	\$(18.3)	\$(30.3)	\$(69.8)
Total Employer	\$(45.1)	\$(107.9)	\$(64.5)	\$(217.5)
 Total Employee	 \$0.0	 \$0.0	 \$0.0	 \$0.0
<b>2005-2030</b>				
<b>State:</b>				
General Fund	\$(208.8)	\$(2,014.7)	\$(810.1)	\$(3,033.6)
Non-General Fund	<u>(344.5)</u>	<u>0.0</u>	<u>0.0</u>	<u>(344.5)</u>
<b>Total State</b>	<b>\$(553.3)</b>	<b>\$(2,014.7)</b>	<b>\$(810.1)</b>	<b>\$(3,378.1)</b>
Local Government	\$(490.6)	\$(412.6)	\$(718.4)	\$(1,621.6)
Total Employer	\$(1,043.9)	\$(2,427.3)	\$(1,528.5)	\$(4,999.7)
 Total Employee	 \$0.0	 \$0.0	 \$0.0	 \$0.0



### Fiscal Budget Determinations (Benefit Improvements only):

As a result of the higher required contribution rates, the increase in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>	<b>Total</b>
<b>2005-2007</b>				
<b>State:</b>				
General Fund	\$5.3	\$24.4	\$11.7	\$41.4
Non-General Fund	<u>8.8</u>	<u>0.0</u>	<u>0.0</u>	<u>8.8</u>
<b>Total State</b>	<b>\$14.1</b>	<b>\$24.4</b>	<b>\$11.7</b>	<b>\$50.2</b>
Local Government	\$12.5	\$5.0	\$10.4	\$27.9
Total Employer	\$26.6	\$29.4	\$22.1	\$78.1
Total Employee	\$18.1	\$6.4	\$2.6	\$27.1
<b>2007-2009</b>				
<b>State:</b>				
General Fund	\$6.5	\$28.2	\$12.8	\$47.5
Non-General Fund	<u>10.7</u>	<u>0.0</u>	<u>0.0</u>	<u>10.7</u>
<b>Total State</b>	<b>\$17.2</b>	<b>\$28.2</b>	<b>\$12.8</b>	<b>\$58.2</b>
Local Government	\$15.2	\$5.8	\$11.4	\$32.4
Total Employer	\$32.4	\$34.0	\$24.2	\$90.6
Total Employee	\$20.8	\$8.9	\$3.6	\$33.3
<b>2005-2030</b>				
<b>State:</b>				
General Fund	\$149.8	\$730.1	\$190.7	\$1,070.6
Non-General Fund	<u>247.2</u>	<u>0.0</u>	<u>0.0</u>	<u>247.2</u>
<b>Total State</b>	<b>\$397.0</b>	<b>\$730.1</b>	<b>\$190.7</b>	<b>\$1,317.8</b>
Local Government	\$352.1	\$149.5	\$169.1	\$670.7
Total Employer	\$749.1	\$879.6	\$359.8	\$1,988.5
Total Employee	\$401.2	\$356.9	\$114.7	\$872.8

## Fiscal Budget Determinations (All Changes):

As a result of the lower required contribution rates, the decrease in funding expenditures is projected to be:

<b>Costs (in Millions):</b>	<b>PERS</b>	<b>TRS</b>	<b>SERS</b>	<b>Total</b>
<b>2005-2007</b>				
<b>State:</b>				
General Fund	\$(2.7)	\$(56.0)	\$(16.4)	\$(75.1)
Non-General Fund	<u>(4.5)</u>	<u>0.0</u>	<u>0.0</u>	<u>(4.5)</u>
<b>Total State</b>	<b>\$(7.2)</b>	<b>\$(56.0)</b>	<b>\$(16.4)</b>	<b>\$(79.6)</b>
Local Government	\$(6.4)	\$(11.5)	\$(14.6)	\$(32.5)
Total Employer	\$(13.6)	\$(67.5)	\$(31.0)	\$(112.1)
 Total Employee	 \$18.1	 \$6.4	 \$2.6	 \$27.1
<b>2007-2009</b>				
<b>State:</b>				
General Fund	\$(2.5)	\$(61.4)	\$(21.4)	\$(85.3)
Non-General Fund	<u>(4.2)</u>	<u>0.0</u>	<u>0.0</u>	<u>(4.2)</u>
<b>Total State</b>	<b>\$(6.7)</b>	<b>\$(61.4)</b>	<b>\$(21.4)</b>	<b>\$(89.5)</b>
Local Government	\$(6.0)	\$(12.5)	\$(18.9)	\$(37.4)
Total Employer	\$(12.7)	\$(73.9)	\$(40.3)	\$(126.9)
 Total Employee	 \$20.8	 \$8.9	 \$3.6	 \$33.3
<b>2005-2030</b>				
<b>State:</b>				
General Fund	\$(59.0)	\$(1,284.6)	\$(619.4)	\$(1,963.0)
Non-General Fund	<u>(97.3)</u>	<u>0.0</u>	<u>0.0</u>	<u>(97.3)</u>
<b>Total State</b>	<b>\$(156.3)</b>	<b>\$(1,284.6)</b>	<b>\$(619.4)</b>	<b>\$(2,060.3)</b>
Local Government	\$(138.5)	\$(263.1)	\$(549.3)	\$(950.9)
Total Employer	\$(294.8)	\$(1,547.7)	\$(1,168.7)	\$(3,011.2)
 Total Employee	 \$401.2	 \$356.9	 \$114.7	 \$872.8

## STATEMENT OF DATA AND ASSUMPTIONS USED IN PREPARING THIS FISCAL NOTE:

The costs presented in this fiscal note are based on our understanding of the bill as well as generally accepted actuarial standards of practice including the following:

1. Costs were developed using the same membership data, methods, assets and assumptions as those used in preparing the September 30, 2003 actuarial valuation report of the Teachers Retirement System, School Employee's Retirement System, and Public Employee's Retirement System. Costs for the repeal of gain sharing and the SERS 3 contribution were based on the Aggregate Cost Method. Costs for the Rule of 90 and Choice were based on the Entry Age Normal Cost Method.
2. As with the costs developed in the actuarial valuation, the emerging costs of the System will vary from those presented in the valuation report or this fiscal note to the extent that actual experience differs from that projected by the actuarial assumptions.
3. Additional assumptions used to evaluate the cost impact of the bill which were not used or disclosed in the actuarial valuation report include the following:

Rule of 90						
Kicker Added to Retirement Probability						
	PERS Male	PERS Female	SERS Male	SERS Female	TRS Male	TRS Female
Age						
60	0.44	0.33	0.38	0.45	0.45	0.45
61	0.29	0.22	0.25	0.30	0.30	0.30
62	0.29	0.16	0.25	0.20	0.30	0.20
63	0.11	0.16	0.25	0.20	0.25	0.20
64	0.11	0.16	0.25	0.20	0.25	0.20

*The kicker (additional retirement rate) is added to the retirement probability at the age when a member is first eligible for the Rule of 90. For each year after the year first eligible, 25% of the kicker is added.*

4. The analysis of this bill does not consider any other proposed changes to the system. The combined effect of several changes to the system could exceed the sum of each proposed change considered individually.
5. This fiscal note is intended for use only during the 2005 Legislative Session.
6. The funding method used for Plan 1 utilizes the Plan 2/3 employer/state rate as the Normal Cost and amortizes the remaining liability (UAAL) by the year 2024. Benefit increases to Plan 2/3 will change the UAAL in Plan 1. The cost of benefit increases to Plan 1 increases the UAAL.
7. Plan 2/3 utilizes the Aggregate Funding Method. The cost of Plan 2/3 is spread over the average working lifetime of the current active Plan 2/3 members.
8. The cost increases/(decreases) for the bill used to determine the increase in funding expenditures for future new entrants are 0.18% for PERS Plan 2 members, (0.07%) for PERS employers, 0.48% for TRS Plan 2 members, (0.73%) for TRS employers, 0.33% for SERS Plan 2 members, and (1.62)% for SERS employers. These includes a cost of 0.14% for TRS members and employers and 0.16% for SERS members and employers for choice.

## **GLOSSARY OF ACTUARIAL TERMS:**

**Actuarial Present Value:** The value of an amount or series of amounts payable or receivable at various times, determined as of a given date by the application of a particular set of Actuarial Assumptions (i.e. interest rate, rate of salary increases, mortality, etc.)

**Projected Benefits:** Pension benefit amounts which are expected to be paid in the future taking into account such items as the effect of advancement in age as well as past and anticipated future compensation and service credits.

**Normal Cost:** Computed differently under different funding methods, the normal cost generally represents the portion of the cost of projected benefits allocated to the current plan year.

**Actuarial accrued liability:** Computed differently under different funding methods, the actuarial accrued liability generally represents the portion of the present value of fully projected benefits attributable to service credit that has been earned (or accrued) as of the valuation date.

**Unfunded Actuarial Accrued Liability (UAAL):** The excess, if any, of the actuarial accrued liability over the actuarial value of assets. In other words, the present value of benefits earned to date that are not covered by plan assets.

**Pension Benefit Obligation (PBO):** The portion of the Actuarial Present Value of future benefits attributable to service credit that has been earned to date (past service).

**Unfunded Liability (Unfunded PBO):** The excess, if any, of the Pension Benefit Obligation over the Valuation Assets. This is the portion of all benefits earned to date that are not covered by plan assets.

# Select Committee on Pension Policy

P.O. Box 40914  
Olympia, WA 98504-0914  
actuary\_st@leg.wa.gov

December 1, 2004

TO: SCPP Members

FROM: Representative Fromhold

SUBJECT: **PLAN 3 GAIN-SHARING**

Dear SCPP Members:

The Purchasing Power/Gain-Sharing subgroup of the SCPP has been working on a legislative proposal that would involve a tradeoff of certain benefits that would replace Plan 3 gain-sharing. The subgroup first met on November 9, 2004. Suggested components for the tradeoff included a rule of 90, five-year vesting for the Plans 3, and direct deposits of cash into the Plan 3 member accounts. The target cost for the tradeoff package was to approximate half of the forecasted cost of future gain-sharing. No consensus was reached in the subgroup. The subgroup asked OSA staff to develop a proposal that would reach the target cost, but no specific direction was given as to the elements of the tradeoff package.

Several draft proposals were outlined by staff for consideration by the subgroup, and a handout describing the draft proposals was provided to several subgroup members on November 11, 2004. After additional feedback from subgroup members, staff was directed to prepare a package that included the following:

- a. A modified rule of 90 for vested members of the Plans 2/3 with prospective unreduced retirement benefits and a minimum age of 60;
- b. Plan 2/3 choice for new members of TRS and SERS (using the same terms as currently exist for PERS); and
- c. an annual employer contribution into the existing Plan 3 member accounts in SERS.

On December 1, 2004, several subgroup members (Fromhold, Charles and Parr) met to consider the evaluation of items b and c of the package by tax counsel to DRS. As the result of that meeting, it was determined that further negotiations were necessary among the affected member groups before a final proposal could come before the SCPP.

As of the December 1, 2004 deadline for mailing materials to the SCPP, there was no final proposal to outline, price and incorporate into a bill draft for consideration by the SCPP. Therefore, the background materials for the proposal (assuming that consensus can be reached) will be provided as handouts at the December 7, 2004 meeting. Any proposal from the subgroup will be considered by the Executive Committee prior to the full SCPP meeting.

**Representative Gary Alexander**

**Elaine M. Banks**  
TRS Retirees

**Marty Brown, Director\***  
Office of Financial Management

**Senator Don Carlson**

**John Charles, Director**  
Department of Retirement Systems

**Representative Steve Conway\***  
Vice Chair

**Representative Larry Crouse**

**Richard Ford**  
PERS Retirees

**Senator Karen Fraser\***  
Chair

**Representative Bill Fromhold**

**Leland A. Goeke\***  
TRS and SERS Employers

**Bob Keller**  
PERS Actives

**Corky Mattingly**  
PERS Employers

**Doug Miller**  
PERS Employers

**Glenn Olson**  
PERS Employers

**Diane Rae**  
TRS Actives

**Senator Debbie Regala**

**J. Pat Thompson**  
PERS Actives

**David Westberg\***  
SERS Actives

**\*Executive Committee**

(360) 753-9144  
Fax: (360) 586-8135  
TDD: 1-800-635-9993

# Select Committee on Pension Policy

## Technical Corrections

(November 18, 2004)

---

### Proposal

This bill makes necessary technical corrections to retirement statutes including incorrect cross-references, inadvertent omissions of necessary references, and accidental duplication of statutory language. The bill also codifies current administrative practices, and repeals obsolete or unnecessary sections.

### Staff

Robert Wm. Baker, Senior Research Analyst  
(360) 586-9237

### Sectional Analysis

**Section 1** - Amends the estoppel language in the general retirement provisions that could prevent retirees from rejoining membership.

**Sections 2 and 10** - Add cross references in PERS and TRS chapters for retirees returning to work in PSERS.

**Section 3** - Adds language to the Plan 3 Defined Contribution chapter that expressly provides for payment to the member's estate in the event that the member dies without a surviving spouse or naming a beneficiary.

**Sections 4 and 5** - Amend the definition section and membership sections in PSERS to allow members appointed to a state elective positions to retain their PSERS membership.

**Section 6** - Amends the post-retirement employment section in PSERS to assure members are required to separate for 30 days before returning to work in a PERS, TRS or SERS position.

**Section 7** - Amends PSERS death benefits section because certain benefit adjustments are not actuarial but instead a fixed 3% per year.

**Section 8** - Removes a subsection of the PERS 1 annual increase section that references subsections that have since been repealed.

**Section 9** - Removes language in the PERS chapter related to the automatic transfer of PERS members into SERS, eliminating unnecessary part-time employee transfers.

**Section 11** - Reenacts and amends a section in the funding chapter that had been amended twice in the 2003 session without reference to each other resulting in both sections being codified.

**Section 12** - Repeal sections in PERS, SERS, and PSERS that require written information that is now being provided electronically. Also repeals DRS section that is no longer applicable since the formation of the Pension Funding Council. And repeals the section in the funding chapter that is also reenacted in the bill.

### **Bill (Draft)**

See attachment

### **Fiscal Note (Draft)**

See attachment

1       AN ACT Relating to technical corrections in the general retirement  
2 provisions estoppel section, teachers' retirement system, public safety  
3 employees' retirement system, the school employees' retirement system,  
4 the public employees' retirement system, and the actuarial funding  
5 chapter; amending RCW 41.04.270, 41.32.860, 41.34.070, 41.37.010,  
6 41.37.020, 41.37.050, 41.37.250, 41.40.197, 41.40.750, and 41.40.850;  
7 reenacting RCW 41.45.070; repealing RCW 41.35.050, 41.37.040,  
8 41.40.032, and 41.50.067; providing an effective date; and providing an  
9 expiration date.

10   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11       **Sec. 1.** RCW 41.04.270 and 2001 c 180 s 4 are each amended to read  
12 as follows:

13       (1) ~~((Notwithstanding any provision of))~~ Except as provided in  
14 chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.35, 41.40, or 43.43 RCW  
15 ~~((to the contrary))~~, on and after March 19, 1976, any member or former  
16 member who (a) receives a retirement allowance earned by said former  
17 member as deferred compensation from any public retirement system  
18 authorized by the general laws of this state, or (b) is eligible to  
19 receive a retirement allowance from any public retirement system listed



1 in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary  
2 of a disability allowance from any public retirement system listed in  
3 RCW 41.50.030 shall be estopped from becoming a member of or accruing  
4 any contractual rights whatsoever in any other public retirement system  
5 listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection  
6 shall not apply to persons who have accumulated less than fifteen years  
7 service credit in any such system.

8 (2) Nothing in this section is intended to apply to any retirement  
9 system except those listed in RCW 41.50.030 and the city employee  
10 retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b)  
11 of this section does not apply to a dual member as defined in RCW  
12 41.54.010.

13 **Sec. 2.** RCW 41.32.860 and 2001 2nd sp.s. c 10 s 9 are each amended  
14 to read as follows:

15 (1) Except under RCW 41.32.862, no retiree shall be eligible to  
16 receive such retiree's monthly retirement allowance if he or she is  
17 employed in an eligible position as defined in RCW 41.40.010,  
18 41.32.010, ~~((or))~~ 41.35.010, or 41.37.010, or as a law enforcement  
19 officer or fire fighter as defined in RCW 41.26.030.

20 (2) If a retiree's benefits have been suspended under this section,  
21 his or her benefits shall be reinstated when the retiree terminates the  
22 employment that caused the suspension of benefits. Upon reinstatement,  
23 the retiree's benefits shall be actuarially recomputed pursuant to the  
24 rules adopted by the department.

25 **Sec. 3.** RCW 41.34.070 and 1998 c 117 s 1 are each amended to read  
26 as follows:

27 (1) If the member retires, becomes disabled, or otherwise  
28 terminates employment, the balance in the member's account may be  
29 distributed in accordance with an option selected by the member either  
30 as a lump sum or pursuant to other options authorized by the board.

31 (2) If the member dies while in service, the balance of the  
32 member's account may be distributed in accordance with an option  
33 selected by the member either as a lump sum or pursuant to other  
34 options authorized by the board. The distribution is as follows:

35 (a) The distribution shall be made to such person or persons as the

1 member shall have nominated by written designation duly executed and  
2 filed with the department(~~(-)~~);

3 (b) If there be no such designated person or persons still living  
4 at the time of the member's death, the balance of the member's account  
5 in the retirement system, less any amount identified as owing to an  
6 obligee upon withdrawal of such account balance pursuant to a court  
7 order filed under RCW 41.50.670, shall be paid to the member's  
8 surviving spouse as if in fact such spouse had been nominated by  
9 written designation(~~(-or)~~);

10 (c) If there is no surviving spouse, then to such person or  
11 persons, trust, or organization as the member shall have nominated by  
12 written designation duly executed and filed with the department; or

13 (d) If there is no such designated person or persons still living  
14 at the time of the member's death, then to the member's legal  
15 representatives.

16 (3) If a member has a terminal illness and terminates from  
17 employment, the member may choose to have the balance in the member's  
18 account distributed as a lump sum payment based on the most recent  
19 valuation in order to expedite the distribution. The department shall  
20 make this payment within ten working days after receipt of notice of  
21 termination of employment, documentation verifying the terminal  
22 illness, and an application for payment.

23 (4) The distribution under subsections (1), (2), or (3) of this  
24 section shall be less any amount identified as owing to an obligee upon  
25 withdrawal pursuant to a court order filed under RCW 41.50.670.

26 **Sec. 4.** RCW 41.37.010 and 2004 c 242 s 2 are each amended to read  
27 as follows:

28 The definitions in this section apply throughout this chapter,  
29 unless the context clearly requires otherwise.

30 (1) "Retirement system" means the Washington public safety  
31 employees' retirement system provided for in this chapter.

32 (2) "Department" means the department of retirement systems created  
33 in chapter 41.50 RCW.

34 (3) "State treasurer" means the treasurer of the state of  
35 Washington.

36 (4) "Employer" means the Washington state department of  
37 corrections, the Washington state parks and recreation commission, the

1 Washington state gambling commission, the Washington state patrol, the  
2 Washington state liquor control board, county corrections departments,  
3 ((and)) city corrections departments not covered under chapter 41.28  
4 RCW, or other employers employing statewide elective officials.

5 (5) "Member" means any employee employed by an employer on a full-  
6 time, fully compensated basis within the following job classes in  
7 effect as of January 1, 2004: City corrections officers, jailers,  
8 police support officers, custody officers, and bailiffs; county  
9 corrections officers, jailers, custody officers, and sheriffs  
10 corrections officers; county probation officers and probation  
11 counselors; state correctional officers, correctional sergeants, and  
12 community corrections officers; liquor enforcement officers; park  
13 rangers; commercial vehicle enforcement officers; and gambling special  
14 agents.

15 (6)(a) "Compensation earnable" for members, means salaries or wages  
16 earned by a member during a payroll period for personal services,  
17 including overtime payments, and shall include wages and salaries  
18 deferred under provisions established pursuant to sections 403(b),  
19 414(h), and 457 of the United States internal revenue code, but shall  
20 exclude nonmoney maintenance compensation and lump sum or other  
21 payments for deferred annual sick leave, unused accumulated vacation,  
22 unused accumulated annual leave, or any form of severance pay.

23 (b) "Compensation earnable" for members also includes the following  
24 actual or imputed payments, which are not paid for personal services:

25 (i) Retroactive payments to an individual by an employer on  
26 reinstatement of the employee in a position, or payments by an employer  
27 to an individual in lieu of reinstatement, which are awarded or granted  
28 as the equivalent of the salary or wage which the individual would have  
29 earned during a payroll period shall be considered compensation  
30 earnable to the extent provided in this subsection, and the individual  
31 shall receive the equivalent service credit;

32 (ii) In any year in which a member serves in the legislature, the  
33 member shall have the option of having such member's compensation  
34 earnable be the greater of:

35 (A) The compensation earnable the member would have received had  
36 such member not served in the legislature; or

37 (B) Such member's actual compensation earnable received for  
38 nonlegislative public employment and legislative service combined. Any

1 additional contributions to the retirement system required because  
2 compensation earnable under (b)(ii)(A) of this subsection is greater  
3 than compensation earnable under (b)(ii)(B) of this subsection shall be  
4 paid by the member for both member and employer contributions;

5 (iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045,  
6 and 72.09.240;

7 (iv) Compensation that a member would have received but for a  
8 disability occurring in the line of duty only as authorized by RCW  
9 41.37.070;

10 (v) Compensation that a member receives due to participation in the  
11 leave sharing program only as authorized by RCW 41.04.650 through  
12 41.04.670; and

13 (vi) Compensation that a member receives for being in standby  
14 status. For the purposes of this section, a member is in standby  
15 status when not being paid for time actually worked and the employer  
16 requires the member to be prepared to report immediately for work, if  
17 the need arises, although the need may not arise.

18 (7) "Service" means periods of employment by a member on or after  
19 July 1, 2006, for one or more employers for which compensation earnable  
20 is paid. Compensation earnable earned for ninety or more hours in any  
21 calendar month shall constitute one service credit month. Compensation  
22 earnable earned for at least seventy hours but less than ninety hours  
23 in any calendar month shall constitute one-half service credit month of  
24 service. Compensation earnable earned for less than seventy hours in  
25 any calendar month shall constitute one-quarter service credit month of  
26 service. Time spent in standby status, whether compensated or not, is  
27 not service.

28 Any fraction of a year of service shall be taken into account in  
29 the computation of such retirement allowance or benefits.

30 (a) Service in any state elective position shall be deemed to be  
31 full-time service.

32 (b) A member shall receive a total of not more than twelve service  
33 credit months of service for such calendar year. If an individual is  
34 employed in an eligible position by one or more employers the  
35 individual shall receive no more than one service credit month during  
36 any calendar month in which multiple service for ninety or more hours  
37 is rendered.

1 (8) "Service credit year" means an accumulation of months of  
2 service credit which is equal to one when divided by twelve.

3 (9) "Service credit month" means a month or an accumulation of  
4 months of service credit which is equal to one.

5 (10) "Membership service" means all service rendered as a member.

6 (11) "Beneficiary" means any person in receipt of a retirement  
7 allowance or other benefit provided by this chapter resulting from  
8 service rendered to an employer by another person.

9 (12) "Regular interest" means such rate as the director may  
10 determine.

11 (13) "Accumulated contributions" means the sum of all contributions  
12 standing to the credit of a member in the member's individual account,  
13 including any amount paid under RCW 41.50.165(2), together with the  
14 regular interest thereon.

15 (14) "Average final compensation" means the member's average  
16 compensation earnable of the highest consecutive sixty months of  
17 service credit months prior to such member's retirement, termination,  
18 or death. Periods constituting authorized leaves of absence may not be  
19 used in the calculation of average final compensation except under RCW  
20 41.37.290.

21 (15) "Final compensation" means the annual rate of compensation  
22 earnable by a member at the time of termination of employment.

23 (16) "Annuity" means payments for life derived from accumulated  
24 contributions of a member. All annuities shall be paid in monthly  
25 installments.

26 (17) "Pension" means payments for life derived from contributions  
27 made by the employer. All pensions shall be paid in monthly  
28 installments.

29 (18) "Retirement allowance" means monthly payments to a retiree or  
30 beneficiary as provided in this chapter.

31 (19) "Employee" or "employed" means a person who is providing  
32 services for compensation to an employer, unless the person is free  
33 from the employer's direction and control over the performance of work.  
34 The department shall adopt rules and interpret this subsection  
35 consistent with common law.

36 (20) "Actuarial equivalent" means a benefit of equal value when  
37 computed upon the basis of such mortality and other tables as may be  
38 adopted by the director.

1 (21) "Retirement" means withdrawal from active service with a  
2 retirement allowance as provided by this chapter.

3 (22) "Eligible position" means any permanent, full-time, fully  
4 compensated position included in subsection (5) of this section.

5 (23) "Ineligible position" means any position which does not  
6 conform with the requirements set forth in subsection (22) of this  
7 section.

8 (24) "Leave of absence" means the period of time a member is  
9 authorized by the employer to be absent from service without being  
10 separated from membership.

11 (25) "Retiree" means any person who has begun accruing a retirement  
12 allowance or other benefit provided by this chapter resulting from  
13 service rendered to an employer while a member.

14 (26) "Director" means the director of the department.

15 (27) "State elective position" means any position held by any  
16 person elected or appointed to statewide office or elected or appointed  
17 as a member of the legislature.

18 (28) "State actuary" or "actuary" means the person appointed  
19 pursuant to RCW 44.44.010(2).

20 (29) "Plan" means the Washington public safety employees'  
21 retirement system plan 2.

22 (30) "Index" means, for any calendar year, that year's annual  
23 average consumer price index, Seattle, Washington area, for urban wage  
24 earners and clerical workers, all items, compiled by the bureau of  
25 labor statistics, United States department of labor.

26 (31) "Index A" means the index for the year prior to the  
27 determination of a postretirement adjustment.

28 (32) "Index B" means the index for the year prior to index A.

29 (33) "Adjustment ratio" means the value of index A divided by index  
30 B.

31 (34) "Separation from service" occurs when a person has terminated  
32 all employment with an employer.

33 **Sec. 5.** RCW 41.37.020 and 2004 c 242 s 4 are each amended to read  
34 as follows:

35 Membership in the retirement system shall consist of all regularly  
36 compensated public safety employees who are members as defined in RCW  
37 41.37.010(5), with the following exceptions:

(1) Persons in ineligible positions;

(2)(a) Persons holding elective offices or persons appointed directly by the governor to statewide elective offices: PROVIDED, That such persons shall have the option of (~~applying for~~) continuing membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file on a form supplied by the department a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (2)(b);

(3) Retirement system retirees: PROVIDED, That following reemployment in an eligible position, a retiree may elect to

1 prospectively become a member of the retirement system if otherwise  
2 eligible;

3 (4) Persons enrolled in state-approved apprenticeship programs,  
4 authorized under chapter 49.04 RCW, and who are employed by employers  
5 to earn hours to complete such apprenticeship programs, if the employee  
6 is a member of a union-sponsored retirement plan and is making  
7 contributions to such a retirement plan or if the employee is a member  
8 of a Taft-Hartley retirement plan;

9 (5) Persons rendering professional services to an employer on a  
10 fee, retainer, or contract basis or when the income from these services  
11 is less than fifty percent of the gross income received from the  
12 person's practice of a profession; and

13 (6) Employees who (a) are not citizens of the United States, (b)  
14 are not covered by chapter 41.48 RCW, (c) are not excluded from  
15 membership under this chapter or chapter 41.04 RCW, (d) are residents  
16 of this state, and (e) make an irrevocable election to be excluded from  
17 membership, in writing, which is submitted to the director within  
18 thirty days after employment in an eligible position.

19 **Sec. 6.** RCW 41.37.050 and 2004 c 242 s 8 are each amended to read  
20 as follows:

21 (1)(a) If a retiree enters employment in an eligible position with  
22 an employer as defined in this chapter sooner than one calendar month  
23 after his or her accrual date, the retiree's monthly retirement  
24 allowance will be reduced by five and one-half percent for every eight  
25 hours worked during that month. This reduction will be applied each  
26 month until the retiree remains absent from employment with an employer  
27 for one full calendar month.

28 (b) If a retiree enters employment in an eligible position with an  
29 employer as defined in chapter 41.32, 41.35, or 41.40 RCW sooner than  
30 one calendar month after his or her accrual date, the retiree's monthly  
31 retirement allowance will be reduced by five and one-half percent for  
32 every eight hours worked during that month. This reduction will be  
33 applied each month until the retiree remains absent from employment  
34 with an employer for one full calendar month.

35 (c) The benefit reduction provided in (a) and (b) of this  
36 subsection will accrue for a maximum of one hundred sixty hours per



1 month. Any benefit reduction over one hundred percent will be applied  
2 to the benefit the retiree is eligible to receive in subsequent months.

3 (2) A retiree who has satisfied the break in employment requirement  
4 of subsection (1) of this section may work up to eight hundred sixty-  
5 seven hours per calendar year in an eligible position as defined in RCW  
6 41.32.010, 41.35.010, or 41.40.010, without suspension of his or her  
7 benefit.

8 (3) If the retiree opts to reestablish membership under this  
9 chapter, he or she terminates his or her retirement status and becomes  
10 a member. Retirement benefits shall not accrue during the period of  
11 membership and the individual shall make contributions and receive  
12 membership credit. Such a member shall have the right to again retire  
13 if eligible in accordance with this chapter. However, if the right to  
14 retire is exercised to become effective before the member has rendered  
15 two uninterrupted years of service, the retirement formula and survivor  
16 options the member had at the time of the member's previous retirement  
17 shall be reinstated.

18 (4) The department shall collect and provide the state actuary with  
19 information relevant to the use of this section for the select  
20 committee on pension policy.

21 **Sec. 7.** RCW 41.37.250 and 2004 c 242 s 31 are each amended to read  
22 as follows:

23 (1) Except as provided in RCW 11.07.010, if a member or a vested  
24 member who has not completed at least ten years of service dies, the  
25 amount of the accumulated contributions standing to that member's  
26 credit in the retirement system at the time of the member's death, less  
27 any amount identified as owing to an obligee upon withdrawal of  
28 accumulated contributions pursuant to a court order filed under RCW  
29 41.50.670, shall be paid to the member's estate, or the person or  
30 persons, trust, or organization as the member shall have nominated by  
31 written designation duly executed and filed with the department. If  
32 there is no designated person or persons still living at the time of  
33 the member's death, the member's accumulated contributions standing to  
34 the member's credit in the retirement system, less any amount  
35 identified as owing to an obligee upon withdrawal of accumulated  
36 contributions pursuant to a court order filed under RCW 41.50.670,

1 shall be paid to the member's surviving spouse as if in fact that  
2 spouse had been nominated by written designation, or if there is no  
3 surviving spouse, then to the member's legal representatives.

4 (2) If a member who is eligible for retirement or a member who has  
5 completed at least ten years of service dies, the surviving spouse or  
6 eligible child or children shall elect to receive either:

7 (a) A retirement allowance computed as provided for in RCW  
8 41.37.210, actuarially reduced by the amount of any lump sum benefit  
9 identified as owing to an obligee upon withdrawal of accumulated  
10 contributions pursuant to a court order filed under RCW 41.50.670 and  
11 actuarially adjusted to reflect a joint and one hundred percent  
12 survivor option under RCW 41.37.170 and, except under subsection (4) of  
13 this section, if the member was not eligible for normal retirement at  
14 the date of death a further reduction as described in RCW 41.37.210; if  
15 a surviving spouse who is receiving a retirement allowance dies leaving  
16 a child or children of the member under the age of majority, then the  
17 child or children shall continue to receive an allowance in an amount  
18 equal to that which was being received by the surviving spouse, share  
19 and share alike, until the child or children reach the age of majority;  
20 if there is no surviving spouse eligible to receive an allowance at the  
21 time of the member's death, the member's child or children under the  
22 age of majority shall receive an allowance, share and share alike,  
23 calculated under this section making the assumption that the ages of  
24 the spouse and member were equal at the time of the member's death; or

25 (b) The member's accumulated contributions, less any amount  
26 identified as owing to an obligee upon withdrawal of accumulated  
27 contributions pursuant to a court order filed under RCW 41.50.670.

28 (3) If a member who is eligible for retirement or a member who has  
29 completed at least ten years of service dies and is not survived by a  
30 spouse or an eligible child, then the accumulated contributions  
31 standing to the member's credit, less any amount identified as owing to  
32 an obligee upon withdrawal of accumulated contributions pursuant to a  
33 court order filed under RCW 41.50.670, shall be paid:

34 (a) To a person or persons, estate, trust, or organization as the  
35 member shall have nominated by written designation duly executed and  
36 filed with the department; or

37 (b) If there is no designated person or persons still living at the  
38 time of the member's death, then to the member's legal representatives.

1 (4) A member who is killed in the course of employment, as  
2 determined by the director of the department of labor and industries,  
3 is not subject to ~~((an actuarial))~~ reduction under RCW 41.37.210. The  
4 member's retirement allowance is computed under RCW 41.37.190.

5 **Sec. 8.** RCW 41.40.197 and 1995 c 345 s 5 are each amended to read  
6 as follows:

7 (1) Beginning July 1, 1995, and annually thereafter, the retirement  
8 allowance of a person meeting the requirements of this section shall be  
9 increased by the annual increase amount.

10 (2) The following persons shall be eligible for the benefit  
11 provided in subsection (1) of this section:

12 (a) A beneficiary who has received a retirement allowance for at  
13 least one year and has attained at least age sixty-six by July 1st in  
14 the calendar year in which the annual increase is given; or

15 (b) A beneficiary whose retirement allowance is lower than the  
16 minimum benefit provided under RCW 41.40.1984.

17 ~~((3)) ((The following persons shall also be eligible for the benefit  
18 provided in subsection (1) of this section:~~

19 ~~((a)) A beneficiary receiving the minimum benefit on June 30, 1995,  
20 under RCW 41.40.198; or~~

21 ~~((b)) A recipient of a survivor benefit on June 30, 1995, which has  
22 been increased by RCW 41.40.325.~~

23 ~~((4))~~ If otherwise eligible, those receiving an annual adjustment  
24 under RCW 41.40.188(1)(c) shall be eligible for the annual increase  
25 adjustment in addition to the benefit that would have been received  
26 absent this section.

27 ~~((5))~~ (4) Those receiving a benefit under RCW 41.40.220(1), or a  
28 survivor of a disabled member under RCW 41.44.170(5) shall be eligible  
29 for the benefit provided by this section.

30 ~~((6))~~ (5) The legislature reserves the right to amend or repeal  
31 this section in the future and no member or beneficiary has a  
32 contractual right to receive this postretirement adjustment not granted  
33 prior to that time.

34 **Sec. 9.** RCW 41.40.750 and 2001 2nd sp.s. c 10 s 13 are each  
35 amended to read as follows:

36 (1) Effective September 1, 2000, the membership of all plan 2

1 members currently employed in eligible positions in a school district  
2 or educational service district and all plan 2 service credit for such  
3 members, is transferred to the Washington school employees' retirement  
4 system plan 2. Plan 2 members who have withdrawn their member  
5 contributions for prior plan 2 service may restore contributions and  
6 service credit to the Washington school employees' retirement system  
7 plan 2 as provided under RCW 41.40.740.

8 ~~(2) (a) ((The membership and previous service credit of a plan 2~~  
9 ~~member not employed in an eligible position on September 1, 2000, will~~  
10 ~~be transferred to the Washington school employees' retirement system~~  
11 ~~plan 2 when he or she becomes employed in an eligible position.))~~ Plan  
12 2 members not employed in an eligible position on September 1, 2000,  
13 who have withdrawn their member contributions for prior plan 2 service  
14 may restore contributions and service credit to the Washington school  
15 employees' retirement system plan 2 as provided under RCW 41.40.740.

16 (b) The membership and previous service credit of a plan 2 member  
17 last employed by a school district or educational service district and  
18 retired prior to September 1, 2000, will be transferred to the  
19 Washington school employees' retirement system plan 2 if the member  
20 opts to reestablish membership.

21 (3) Members who restore contributions and service credit under  
22 subsection (1) or (2) of this section shall have their contributions  
23 and service credit transferred to the Washington school employees'  
24 retirement system.

25 (4) This section applies retroactively to September 1, 2000.

26 **Sec. 10.** RCW 41.40.850 and 2000 c 247 s 315 are each amended to  
27 read as follows:

28 (1) Except as provided in RCW 41.40.037, no retiree under the  
29 provisions of plan 3 shall be eligible to receive such retiree's  
30 monthly retirement allowance if he or she is employed in an eligible  
31 position as defined in RCW 41.40.010, 41.32.010, ~~((or))~~ 41.35.010, or  
32 41.37.010, or as a law enforcement officer or fire fighter as defined  
33 in RCW 41.26.030, except that a retiree who ends his or her membership  
34 in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject  
35 to this section if the retiree's only employment is as an elective  
36 official of a city or town.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

**Sec. 11.** RCW 41.45.070 and 2003 c 92 s 5 are each reenacted to read as follows:

(1) In addition to the basic employer contribution rate established in RCW 41.45.060 or 41.45.054, the department shall also charge employers of public employees' retirement system, teachers' retirement system, school employees' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems. Except as provided in subsections (6) and (7) of this section, the supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) In addition to the basic member, employer, and state contribution rate established in RCW 41.45.0604 for the law enforcement officers' and fire fighters' retirement system plan 2, the department shall also establish supplemental rates to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system plan 2. Except as provided in subsection (6) of this section, these supplemental rates shall be calculated by the actuary retained by the law enforcement officers' and fire fighters' board and the state actuary through the process provided in RCW 41.26.720(1)(a) and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and Washington state patrol retirement system, shall be calculated as the

1 level percentage of all members' pay needed to fund the cost of the  
2 benefit not later than June 30, 2024.

3 (4) The supplemental rate charged under this section to fund  
4 benefit increases provided to active and retired members of the public  
5 employees' retirement system plan 2 and plan 3, the teachers'  
6 retirement system plan 2 and plan 3, or the school employees'  
7 retirement system plan 2 and plan 3 shall be calculated as the level  
8 percentage of all members' pay needed to fund the cost of the benefit,  
9 as calculated under RCW 41.45.060, 41.45.061, or 41.45.067.

10 (5) The supplemental rate charged under this section to fund  
11 postretirement adjustments which are provided on a nonautomatic basis  
12 to current retirees shall be calculated as the percentage of pay needed  
13 to fund the adjustments as they are paid to the retirees. The  
14 supplemental rate charged under this section to fund automatic  
15 postretirement adjustments for active or retired members of the public  
16 employees' retirement system plan 1 and the teachers' retirement system  
17 plan 1 shall be calculated as the level percentage of pay needed to  
18 fund the cost of the automatic adjustments not later than June 30,  
19 2024.

20 (6) A supplemental rate shall not be charged to pay for the cost of  
21 additional benefits granted to members pursuant to chapter 340, Laws of  
22 1998.

23 (7) A supplemental rate shall not be charged to pay for the cost of  
24 additional benefits granted to members pursuant to chapter 41.31A RCW;  
25 section 309, chapter 341, Laws of 1998; or section 701, chapter 341,  
26 Laws of 1998.

27 NEW SECTION. **Sec. 12.** The following acts or parts of acts are  
28 each repealed:

29 (1) RCW 41.35.050 (Information furnished by employees, appointive  
30 and elective officials) and 1998 c 341 s 6;

31 (2) RCW 41.37.040 (Employee information--Required) and 2004 c 242  
32 s 7;

33 (3) RCW 41.40.032 (Information furnished by employees, appointive  
34 and elective officials) and 1991 c 35 s 76, 1949 c 240 s 8, & 1947 c  
35 274 s 1;

36 (4) 2003 1st sp.s. c 11 s 3; and

1 (5) RCW 41.50.067 (Adopted employer rates--Notification to  
2 employers) and 1993 c 519 s 21.

3 NEW SECTION. **Sec. 13.** Sections 4 through 7 of this act take  
4 effect July 1, 2006.

5 NEW SECTION. **Sec. 14.** Section 11 of this act expires July 1,  
6 2006.

--- END ---

# FISCAL NOTE

REQUEST NO.

RESPONDING AGENCY:

CODE:

DATE:

BILL NUMBER:

**Office of the State Actuary**

**035**

**11/30/2004 Z-0237.1**

## SUMMARY OF BILL:

This bill impacts the Teacher's, Public Safety Employee's (PSERS), School Employee's, and Public Employee's Retirement Systems by making technical corrections to incorrect cross-references, inadvertent omissions of necessary references, and accidental duplication of statutory language. The bill also codifies current administrative practices, and repeals obsolete or unnecessary sections. The bill:

- Amends the estoppel language in the general retirement provisions that could prevent retirees from rejoining membership.
- Add cross references in PERS and TRS chapters for retirees returning to work in PSERS.
- Adds language to the Plan 3 Defined Contribution chapter that expressly provides for payment to the member's estate in the event that the member dies without a surviving spouse or naming a beneficiary.
- Amends the definition section and membership sections in PSERS to allow members appointed to a state elective positions to retain their PSERS membership.
- Amends the post-retirement employment section in PSERS to assure members are required to separate for 30 days before returning to work in a PERS, TRS or SERS position.
- Amends PSERS death benefits section because certain benefit adjustments are not actuarial but instead a fixed 3% per year.
- Removes a subsection of the PERS 1 annual increase section that references subsections that have since been repealed.
- Removes language in the PERS chapter related to the automatic transfer of PERS members into SERS, eliminating unnecessary part-time employee transfers.
- Reenacts and amends a section in the funding chapter that had been amended twice in the 2003 session without reference to each other resulting in both sections being codified.
- Repeal sections in PERS, SERS, and PSERS that require written information that is now being provided electronically. Also repeals DRS section that is no longer applicable since the formation of the Pension Funding Council. And repeals the section in the funding chapter that is also reenacted in the bill.

Effective Date: 90 days after session

## FISCAL IMPACT:

None.